Summary Under the Criteria and Evidence for

Final Determination against Federal Acknowledgment

# of the

Mobile - Washington County Band of Choctaw Indians of South Alabama

Prepared in response to a petition submitted to the
Assistant Secretary - Indian Affairs for
Federal acknowledgment that this group exists as an Indian Tribe.

Approved: December 16, 1997
Date

Kevin Gover
Assistant Secretary - Indian Affairs

FINAL DETERMINATION

Mobile - Washington County Band of Choctaw Indians of South Alabama

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INTRODUCTION

On January 5, 1995, the Assistant Secretary - Indian Affairs (AS-IA) of the Department of the Interior (Department), published notice of the proposed finding against Federal acknowledgment of the Mobile - Washington County Band of Choctaw Indians of South Alabama (MOWA). This proposed finding concluded that the MOWA "clearly does not meet the requirements of criterion 83.7 (e)" of the acknowledgment regulations (60 Federal Register, 1874). This Final Determination declines to acknowledge that the MOWA exists as an Indian tribe within the meaning of Federal law because it fails to meet the requirement of criterion 83.7 (e).

Purpose of the Federal Acknowledgment Regulations

The acknowledgment process is regulated under 25 CFR Part 83, *Procedures for Establishing That an American Indian Group Exists as an Indian Tribe.* The purpose of the Federal acknowledgment regulations is "to establish a departmental procedure and policy for acknowledging that certain American Indian groups exist as tribes." Acknowledgment by the Department "is a prerequisite to the protection, services, and benefits of the Federal government available to Indian tribes by virtue of their status as tribes" (25 CFR 83.2).

Bases for the Final Determination

The notice of the proposed finding against Federal acknowledgment was based on a determination that the MOWA did not meet one of the seven mandatory criteria set forth in 25 CFR 83.7, specifically, criterion 83.7 (e) which states:

> **The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.**

The Proposed Finding stated that "no evidence was found to demonstrate that the ancestors of the petitioner were descended from a single historic tribe or tribes which combined and functioned as an autonomous entity" (60 Federal Register, 1874).

Under 25 CFR 83, the MOWA submitted a documented petition containing detailed, specific evidence in support of a request to the AS-IA to acknowledge its tribal existence. However, the petitioner and other evidence submitted by the MOWA and independent research by the BIA fails to demonstrate that the petitioner meets criterion 83.7 (e). In accordance with 25 CFR 83.10 (m), failure to meet any one of the seven criteria requires a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

Procedures for Handling Expedited Negative Proposed Finding under 25 CFR 83.10 (e) and subsequent Final Determination

The MOWA petition for Federal Acknowledgment was evaluated under 25 CFR 83.10(e) which provides for an expedited finding on a single criterion when the documented petition and response to the technical assistance letter indicates that there is little or no evidence that the petitioner can meet criterion 83.7 (e). An evaluation of a single criterion for an expedited negative Proposed Finding occurs only after the petitioner has had the opportunity to respond to the technical assistance review of its petition materials (25 CFR 83.10 (e) and 59 FR 9290).

To issue an expedited negative Proposed Finding, the burden of proof is on the Government to clearly establish that the petitioner does not meet a mandatory criterion, in this case criterion 83.7 (e). In the response to public comments on the adoption of this expedited process as part of the acknowledgment regulations, the AS-IA explained that the standard of proof required to utilize this procedure was "clear evidence" that the petitioner did not meet either criteria (e), (f), or (g) (59 FR 9290).

The Government met this burden of proof for issuing a Proposed Finding by demonstrating that the MOWA clearly did not meet the requirements of criterion 83.7 (e). A petitioner must meet all seven of the mandatory acknowledgment criteria specified in 25 CFR 83.7 to be acknowledged as an Indian tribe, so its failure to meet one criterion results in a finding against acknowledgment (25 CFR 83.10 (m)). Because the Department's analysis clearly showed that the MOWA did not meet criterion 83.7 (e), under 83.10 (e) it was not necessary for the Department to discuss the evidence relating to the other six criteria, or to conclude whether or not the MOWA met those other criteria in the Proposed Finding.

The burden of proof shifts from the Government to the petitioner when a Final Determination of the petitioner's status is made under the expedited provisions of the acknowledgment regulations. For the Final Determination, the burden of proof is on the petitioner to rebut the conclusions of the Proposed Finding. The standard of proof for rebuttal is the "reasonable likelihood of the validity of the facts" standard described in the acknowledgment regulations (25 CFR 83.6 (d)).

All petitioners must meet this standard in all Final Determinations. It is a lower standard than that met by the Government in issuing the expedited Proposed Finding. If, in its response to the Proposed Finding, a petitioner or interested or informed parties provide sufficient evidence that the petitioner meets criterion 83.7 (e) under the "reasonable likelihood of the validity of the facts" standard, then a review of the documented petition under "active consideration" of all seven of the mandatory criteria is undertaken. If, in its response to the Proposed Finding, a petitioner or other parties fail to provide sufficient evidence that the petitioner meets criterion 83.7 (e) under this standard, the Assistant Secretary issues a Final Determination based upon criterion (e) only. This Final Determination on the MOWA petition is issued based on the finding that the evidence submitted by the MOWA, including that submitted in its petition, in response to the OD letter, and in response to the Proposed Finding did not show that it met criterion 83.7 (e) under the "reasonable likelihood of the validity of the facts" standard.

This final determination is based upon a new analysis of all the information in the record. This includes the original evidence and documentation used in formulating the Proposed Finding, the information submitted by MOWA in its response to the Proposed Finding, and new evidence and documentation collected by the BIA staff for evaluation purposes.

Evaluation of Petitioner's Claim

The petitioner claimed that "the contemporary band of Mowa Choctaws of south Alabama are descendants of full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during the Indian removal in the 1830's" (MOWA Pet. Narr. 1988a, 1). The petitioner's constitution requires MOWA members to be "Descendants of the Signors [sic] and beneficiaries of the Treaty of Dancing Rabbit Creek of 1830" or to demonstrate descent from "Persons whose name appears on Identification rolls of the Dawes Commission"or the "1910 U.S. Special Indian Census of Mobile and Washington Counties Alabama" (MOWA Pet. Narr. 1988d, Governing Documents file).

By the petitioner's own membership criteria, an individual who wishes to be formally recognized by the MOWA must prove descent from individuals on one of these historical documents. The petitioner claimed descent from the historical Choctaw Nation but the documentation submitted fails to demonstrate that the MOWA, as individuals or as an entity, descend from this tribe or any other historical tribe. The petitioner claims as a historical starting point the 1830 Treaty of Dancing Rabbit Creek which was entered into when the Choctaw Nation maintained boundaries within the limits of Mississippi and Alabama (Prucha 1990, 32, see Appendix I). In 1830, the Choctaw Nation was divided into three main divisions: the Western/Northwest, led by Greenwood LeFlore; the Northeastern District led by Mushulatubbe; and the Southern District let by Nitakechi (Foreman 1953, 23, 30). Further, the petitioner specifically claimed descendancy from the "Six Towns"[1] (Foreman 1953, 56) which was located in the Southern District as follows:

> Although the Choctaws ceded their land by a succession of treaties, moving further west at each cession, nevertheless, many families never left. Those who remained, principally remnants of the Sixtowns [sic], formed the basis of the M[OWA]Tribe (MOWA Pet. Narr. 1988a, 13).

Upon examination of the petition, the response to the petition, and other evidence collected by BIA researchers, it is found that there is insufficient evidence to demonstrate descent from the historical Choctaw Nation. The petitioner documented the presence of the historic Choctaw Nation in the Mississippi and Alabama regions; however, none of the names of the MOWA ancestors appear on the historical documents concerning this tribe. Further, none of the names found on the records could be found to be in any way related to the ancestors of the MOWA.

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[1] "These Indians lived in and about Jasper county [sic], Mississippi; they received their name of "Six Towns" from having formerly resided in six towns or settlements near together having the names of Chenocabee-tamaha, Inkillis-tamaha, Tallatamaha, Okatalaia, Mishoweia, and Bishkun" (Foreman 1953, 84).

Finally, the evidence did not demonstrate Indian ancestry of the core ancestral families of the petitioner.

SUMMARY CONCLUSIONS UNDER THE CRITERIA

A. What Did the Proposed Finding Say?

The Proposed Finding concluded that the petitioner did not meet the requirements of criterion 83.7 (e) and cited areas which needed to be addressed during the comment period if the conclusions of the Proposed Finding were to be reversed. Specific problem areas are listed as follows:

(1) The petitioner's core ancestral families did not document American Indian ancestry;

(2) The families which are the actual MOWA progenitors from 1880 have not been documented as descendants of the known removal-era, antebellum American Indians claimed as ancestors by the petitioner;

(3) Many of the early nineteenth century persons claimed as members of their "founding Indian community" by the petitioner cannot be demonstrated to be Choctaw, or even American Indian; and

(4) Only one percent of the petitioner's membership can document American Indian ancestry. This ancestry comes through other ancestral lines than those going to the two core families.

The petitioner's only documented Indian ancestry of the petitioner entered into the group in the 1880's and early 1900's through marriage, is limited in scope, and was not tribal in nature. Only one percent of the present MOWA membership trace to these lines. The substantial evidence available does not show that the MOWA core ancestral families were American Indian. The evidence clearly established that petitioner's membership did not descend from a historical Indian tribe.

B. Evaluation of What the MOWA Petitioner Submitted to Rebut the Negative Proposed Finding and other Evidence in the Record

Originally the petitioner submitted 30 core ancestors whom they claimed were from six varied historical Indian tribes: Apache, Cherokee, Chickasaw, Choctaw, Creek, and Houma (MOWA Pet. Narr. 1988a, "MOWA Band of Choctaws, Known Indian Ancestors," 5-7). In the response to the Proposed Finding, the petitioner presented further documentation on four of these core ancestors whom it claimed to be of Native American descent: Ka-li-o-ka, Nancy Fisher, Lemuel Byrd, and David Weaver.

After analyzing each piece of evidence presented by the petitioner (see the Technical Report which follows), it is concluded in the Final Determination as follows:

(1) Some of the evidence was irrelevant to criterion 83.7 (e) because it did not address genealogical descent from the four claimed ancestors or descent from any historical tribe.

(2) Much of the evidence was oral history and unreliable when tested. Most of the sources were far removed and thus had no direct knowledge of the events as they occurred in the late 1700's and early 1800's. The taped interviews of the 1980's, for example, revealed that the memories of those interviewed were vague, and that specific names and relationships were unknown. Most of the information was found to be unsubstantiated by primary documentation.

(3) The evidence did not connect known MOWA ancestors to the individuals whom the MOWA claimed as Native American or to a historical Indian tribe.

(4) The evidence disproved Indian ancestry of some of the MOWA ancestors.

C. What Did the Department Find?

The BIA searched for evidence on the local, State, and National levels. The ancestors of the petitioning group are known. The primary documents that pertained to the known MOWA ancestors did not show any connection to any documented Indian individual or to any historical tribe. Most of the records of the known MOWA ancestors did not document them as Indian, but described them racially or ethnically with ambiguous terms, such as: "Black," "Cajun," "Caucasian,""Creole," "French," "Mulatto," "Spanish," or "White" (see Proposed Finding, 13-22). None of the primary records revealed their documented known ancestors as "Native American or Indian." None of the primary records demonstrate that the petitioner's members descend from a historical tribe or tribes which combined to form an autonomous political entity.

The BIA also searched the extensive records concerning the historical tribes from which the petitioner claimed descent and did not find any of the MOWA core ancestors connected with any of these historical tribes. The MOWA core ancestors do not descend from the signers and beneficiaries of 1830 Treaty of Dancing Rabbit Creek nor from persons listed on the Identification Rolls of the Dawes Rolls. Nor were the core ancestors identified as an Indian entity on the 1910 U.S. Census.

DETERMINATION

The MOWA response to the Proposed Finding offers no basis for reversing the Proposed Finding against Federal acknowledgment of the MOWA. The evidence does not support the petitioner's claim that its members descended from a historical tribe. The response does not provide evidence or any reason to believe that additional research might uncover such evidence. The evidence submitted by the petitioner and other research conducted by the BIA did not establish that the MOWA ancestors descended from any historical tribe or tribes which combined to form an autonomous political entity. The MOWA petitioner has not demonstrated, by the standard of a "reasonable likelihood of the validity of the facts," that it meets the requirements of criterion 83.7 (e). Thus a full evaluation of the documented petition under all seven of the mandatory criteria is not necessary (83.10 (e) (2)). The petitioner has failed to meet one of the mandatory requirements for Federal acknowledgment as an Indian tribe, 83.7 (e), and therefore the AS-IA declines to acknowledge that the MOWA exists as an Indian tribe.

Final for the Department

The Proposed Finding is affirmed. The AS - IA declines to acknowledge that the petitioner is an Indian tribe. This determination is final for the Department. A request for reconsideration of this Final Determination on the petition of the MOWA for Federal acknowledgment may be filed with the Interior Board of Indian Appeals by the petitioner or any "interested party" within 90 days after the date of publication of this determination in the Federal Register (25 CFR 83.11(a)).

FINAL DETERMINATION

Mobile - Washington County Band of Choctaw Indians of South Alabama

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TECHNICAL REPORT

INTRODUCTION

After consideration of the written arguments and evidence provided by the petitioner, the Assistant Secretary - Indian Affairs (AS-IA) concludes that the petitioner, Mobile - Washington County Band of Choctaw Indians of South Alabama (MOWA)[1], does not meet one of the mandatory criteria for Federal acknowledgment: that it descends from a historical tribe (25 CFR §83.7 (e)). In reaching this conclusion, the AS-IA considered extensive documentation, some of it provided by the petitioner and some of it located by the Bureau of Indian Affairs (BIA) researchers.

Additionally, the BIA met with the petitioner's representatives, conducted site visits, and gave the petitioner every opportunity to provide evidence of its Indian descent. Nevertheless, the evidence does not establish that the MOWA descends from an historical Indian tribe.

This Final Determination is based on the new evidence submitted in response to the proposed finding, the original evidence used in formulating the proposed finding, and on the evidence located by BIA researchers. Criterion 83.7 (e) requires:

> **The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.**

To establish "descent from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity" under §83.7 (e), a petitioner is required to establish the generational links to connect its membership to that tribe.

The petitioning group is derived from two core families that were resident in southwestern Alabama by the end of the first third of the nineteenth century. All persons on the petitioner's membership roll descend from these two families. Neither of these families has demonstrated American Indian ancestry. None of the nineteenth century ancestors of these two families were members of a historical American Indian tribe, or of tribes which had combined and functioned as a single autonomous political entity.

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[1] The Petitioner formulated its name from the first two letters of the Alabama counties **Mo**bile and **Wa**shington (MOWA Pet. Narr. 1988a, 1).

A substantial body of documentation was available on the petitioning group. This extensive evidence does not demonstrate either the Indian ancestry claimed in the petition or other Indian ancestry. This extensive evidence does not support, and in part disproves, Indian ancestry. Only approximately one percent of the membership can demonstrate Indian ancestry of any kind through ancestral lines other than those going to the two core families. Thus no evidence was found to demonstrate that the ancestors of the petitioner were descended from a single historic tribe or tribes which combined and functioned as an autonomous entity.

In this final determination, the AS-IA utilized recognized professional standards of genealogical evaluation, and under these standards determined that the petitioner has failed to establish the required generational linkage to an historic tribe. This final determination affirms the conclusions of the Proposed Finding.

Authority

The AS-IA has prepared this final determination under Part 83 of Title 25 of the Code of Federal Regulations (25 CFR 83), *Procedures for Establishing that an American Indian Group exists as an Indian Tribe*. The AS-IA exercises this responsibility under 5 U.S.C. 301; 25 U.S.C. 2 and 9; 43 U.S.C. 1457; and 209 Departmental Manual 8 (25 CFR 83, 1997, 258).

Administrative History

On January 5, 1995, the AS-IA published in the Federal Register, "Proposed Finding Against Federal Acknowledgment of the MOWA Band of Choctaw" (60 Federal Register, 1874). The technical report of the Proposed Finding defined the expedited administrative process under 25 CFR §83.10 (e)[2], described the administrative history of the petition, presented the petitioner's evidence, and specifically documented the reasons for the negative proposed finding. The proposed finding concluded that the evidence clearly established that the MOWA does not descend from a historical tribe.

The petitioner, interested parties, informed parties, and any individual or organization wishing to challenge or support the proposed finding had 180 days to submit to the AS-IA written arguments and evidence. Upon finding good cause, the AS-IA granted two extensions for written arguments and evidence and the comment period closed on July 16, 1996. The petitioner submitted a response to the Proposed Finding on July 1, 1996.

Two unsolicited comments were submitted after the close of the response period. Numerous form letters were received out of time and all were transmitted to the Solicitor's office for retention for transmittal to the IBIA or the AS-IA in the event of a remand. None of these out of time comments were considered in preparation of the final determination (25 CFR 83.10 (l) (1)).[3]

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[2] §83.10 (e) states: Prior to active consideration, the Assistant Secretary shall investigate any petitioner whose documented petition and response to the technical assistance review letter indicates that there is little or no evidence that establishes that the group can meet the mandatory criteria in paragraphs (e), (f), or (g) of §83.7. (1) If this review finds that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f), or (g) of §83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken pursuant to paragraph (a) of this section.

On July 23 and 24, 1997, the BIA consulted with the petitioner and interested parties to determine an equitable time frame for consideration of written arguments and evidence submitted during the response period. A site visitation was necessary to prepare a review of the new evidence the petitioner provided in its response to the proposed finding.

The BIA conducted additional research in order to evaluate and supplement the record (25 CFR 83.10 (l)(1)). On August 1, 1997, the BIA began consideration of the written arguments and evidence rebutting or supporting the proposed finding.

EVALUATION OF GENEALOGICAL EVIDENCE

The progenitors claimed by the petitioner were clearly defined in order to understand both their ancestors and their descendants. Dates and places of birth, marriage, and death are significant to understanding the genealogy of an individual, a family, a community, and a people.

This technical report documents the investigation and analysis used to arrive at this final determination, including detailed responses to each of the petitioner's rebuttals to the Proposed Finding. As delineated below using proper standards of genealogical research, this Final Determination rejects the petitioner's unsupported speculations, weighs and evaluates inconsistencies in evidence (some of which failed to stand upon examination), and discusses demonstrable errors in the petitioner's evidence.

Because this final determination involves genealogical evidence, and because the petitioner has based a significant portion of its argument on its claim that the Proposed Finding erroneously failed to give sufficient weight to certain evidence, namely the MOWA oral history, a discussion regarding professional standards for informed and competent evaluation of evidence is presented. These standards used in the Proposed Finding are recognized genealogical standards of the highest professional levels and are reflected in the precedents set in prior acknowledgment decisions.

The first task of the BIA researchers is to review and evaluate the evidence submitted in a case. Family or group traditions cannot be accepted as true "until verified from contemporary documentary sources" (Rubincam 1980, 17). The Department must consider the validity of the content of the statements in the documentation submitted and the knowledgability and reliability of the source; otherwise it is impossible to determine if the criteria are met. Oral statements and traditions cannot be accepted at face value, as the petitioner demands, but instead must be evaluated for their accuracy and reliability. Rubincam states, "...consider and analyze all of the facts, regardless of the source, whether tradition or an official record, then decide if you should accept or reject those facts" (Rubincam 1980, 48).

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[3] Terence Chastang and Sandra Chastang Baker to Deborah Madd[ox], June 11, 1997. In possession of Division of Indian Affairs, Office of the Solicitor, Department of the Interior. Larry D. Guyer to Holly Reckord, July 8, 1997. In possession of Division of Indian Affairs, Office of the Solicitor, Department of the Interior.

The Proposed Finding Summarized

The petitioner claims that "The Mowa Band formed through a process that involved the joining together of remnant family groups through the marriages of their children in the 1830's. Throughout the intervening period, descendants of these families have maintained close social ties and community relations and a high rate of endogamy" (MOWA Pet. Narr. 1988a, 30).

Specifically, the petition claims that the "contemporary band of Mowa Choctaws of South Alabama are descendants of full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during Indian removal in the 1830's" (MOWA Pet. Narr. 1988a, 1). Upon examination of the petition, these claims were found to be invalid (PF 1994, 95-120).

The problems with the American Indian ancestry claimed by the petitioner fall into the following major categories:

(1) The petitioner's core ancestral families cannot document American Indian ancestry;

(2) The families which are the actual MOWA progenitors from 1880 have not been documented as descendants of the known removal-era, antebellum American Indians claimed as ancestors by the petitioner;

(3) Many of the early nineteenth century persons claimed as members of their "founding Indian community" by the petitioner cannot be demonstrated to be Choctaw, or even American Indian; and

(4) Only one percent of the petitioner's membership can document American Indian ancestry. This ancestry comes through other ancestral lines than those going to the two core families.

The Department issued this negative Proposed Finding because the AS-IA found that the evidence clearly established that the group did not meet the mandatory criterion §83.7 (e). The petitioner or any individual or organization then had the opportunity to challenge or support the Proposed Finding and submit arguments and evidence to the AS-IA to support or rebut the Proposed Finding. Only the Petitioner responded and provided further argument and documentation within the regulatory time period.

The Petitioner attempted to address the above problem areas. After considering the arguments and evidence, the Department concludes that the petitioner did not establish under the "reasonable likelihood of the validity of the facts" standard that its membership descends from a historical

Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity (25 CFR §§83.6, 83.7 (e)).

THE PETITIONER'S RESPONSE TO THE PROPOSED FINDING

The petitioner's response to the Proposed Finding consisted of a bound volume composed of thirteen sections of written arguments and evidence. The petitioner also provided 66 taped interviews which were inventoried within the response. This technical report presents, analyzes, and evaluates the petitioner's written arguments and evidence.

Evidence Presented and Analysis

1. Cover Letter

Comments - A letter written by the elected head of the petitioning group, Mr. Wilford Taylor, serves as a cover letter for the "Response of MOWA Band of Choctaw Indians to December 16, 1994." It is three pages in length. He states, "the conclusions reached in the proposed finding dated December 16, 1994, that the MOWA cannot satisfy criteria [sic] 83.7 (e), must be rejected. The summary denial of the Petition on December 16, 1994 was erroneous" (Response, Taylor 1996, 1). Mr. Taylor further states that the attached material "fully demonstrates that we are a Choctaw community" (Response, Taylor 1996, 1).

Mr. Taylor argues that "Applying the single criterion [§83.7 (e)] puts an undue burden of proof on a people whose most important genealogical source is oral history. He claims that the proposed finding "did not consider oral history as proof" (Response, Taylor 1996, 1).

Mr. Taylor further asserts that MOWA "can most persuasively prove our presence by our absence..." He stresses that:

> ...[a]n exchange of correspondence between our MOWA Choctaw leaders and the federal government also establishes that we were located in the Mobile-Washington County geographic area between the Removal Era and the Civil War (1830-1860). While we can trace some of our people to ancestors in the 1830's (these persons had White names), we cannot trace the bulk of our people who had phonetically-spelled Choctaw names (Response, Taylor 1996, 2).

Lastly he asserts that the petitioner's "history is not written on paper", but written on a very important genealogical source, "[t]he gravestones of our cemeteries from 1814-1996" (Response, Taylor 1996, 2).

Analysis - Although Mr. Taylor provides several points of argument within this letter, he does not provide specific examples or evidence to rebut the conclusion of the proposed finding that the petitioner did not meet criterion 83.7 (e). While he asserts that despite the lack of "written" documentation, the petitioner can prove "our presence by our absence," the BIA found no evidence to support the petitioner's contention that many of the group's early 19th century ancestors remained unknown or unidentified. Instead, as pointed out by the Petitioner,

> Census data, oral history, land records, military records, court records, marriage records, cemetery records, church and school records all confirm the continuous existence of their community (MOWA Pet. Narr. 1988a, 30).

The BIA reviewed for the purposes of the Proposed Finding and for this report, a substantial body of documentary evidence regarding the petitioner's ancestors. The BIA staff traced the known MOWA ancestors from the records which the petitioner provided, from sources as cited above, and from extensive records that the BIA researchers found at all levels: local, State, and Federal. The Department disagrees with the petitioner's contention that many of the group's early nineteenth century ancestors remained unknown or unidentified.

The BIA did consider the oral histories (as will be discussed later in this report), but found many inconsistencies between statements in the Petition and the Response to the Proposed Finding on the one hand, and the contemporaneous documents on the other hand. The petitioner failed to provide reliable corroborative evidence for the oral histories.

The BIA did not find any correspondence between any known MOWA progenitors and the Federal Government, and the petitioner did not submit any. While there is a wealth of correspondence between historical Choctaw leaders and the War Department and the BIA, none of those historical Choctaw can be identified as the ancestors of or leaders of the progenitors of the MOWA.

The petitioner and the BIA used cemetery records in conjunction with other records; however, in contrast to the petitioner's statements, neither these records nor the headstones (1814 is the earliest birth date found on a headstone) provide singular "phonetically-spelled Choctaw names," nor define relationships between the MOWA core ancestors and identified Choctaw Indians. None of the abundant historical treaties, correspondence, lists, or rolls of Choctaw people provide specific links to the MOWA core ancestors. Even the various Choctaw Claims Commissions' extensive records (where great pains were taken to identify the singular "phonetically-spelled Choctaw names" to the same individuals with English names) did not reveal one direct MOWA core ancestor.

Conclusion - In this cover letter, Mr. Taylor focuses on his argument that the MOWA is a community, with a "Choctaw identity" (Response, Taylor 1996, 2). He does not provide any new evidence to rebut the proposed finding; however, he states that the materials of Dr. Richard W. Stoffle and Ms. Jacqueline Matte rebut the Proposed Finding (Response, Taylor 1996, 1).

2. Photographs

Comments - The petitioner presents seven color pictures of unidentified people, places and things apparently of modern events or settings. All the subjects are women: seven young girls, five older girls, and an older woman. The older woman is the only subject who is identified in any way and then only as the "1993 MOWA Choctaw Mother" (Response, Pictures 1996, 1).

Analysis - No identifying information is recorded on the front or backs of the photographs, or in the remainder of the submission which would allow a means of obtaining the names and other facts concerning the identity of the individuals or in determining their family relationships, if such relationships exist.

Conclusion - Pictures can serve as "valuable sources of genealogical information" (Stevenson 1979, 174). They "should be considered as an original document of family history with potentially valuable information about the subjects" (Greenwood 1990, 570). However, these pictures of unidentified persons and unstated relationships do not assist in defining the relationships as claimed by the petitioner and do not establish that the petitioner meets criterion 83.7 (e).

3. Dr. Stoffle Report, "A Persistent People: Rapid Ethnographic Assessment of MOWA Choctaw Federal Acknowledgment Petition"

Comments - The petitioner presents a 25-page, "rapid ethnographic study" prepared by Richard W. Stoffle, Ph.D., Associate Research Anthropologist, Bureau of Applied Research in Anthropology, University of Arizona, Tucson, Arizona.[4] Dr. Stoffle briefly explains that a rapid ethnographic study is applied cultural anthropology where information is sought through various sources: "documents are used, original field data are collected, face to face observations are made, in depth and focus group interviews are conducted and findings are contextualized with reference to other cases" (Response, Stoffle 1996, 1). Through a rapid ethnographic study a "telling issue" emerges and Dr. Stoffle believes the telling issue for the MOWA is establishing "whether or not they are an American Indian community" (Response, Stoffle 1996, 1).

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[4] The petitioner includes a 23-page Curriculum Vitae of Richard W. Stoffle, PhD, Associate Research Anthropologist, Bureau of Applied Research in Anthropology, University of Arizona, Tucson, Arizona. The information concerning Dr. Stoffle's career has been reviewed and represents an individual with professional credentials in the field of anthropology. His credentials in the field of anthropology are not questioned here. However, the Department does not merely accept the assertions of individuals, whether members of the tribe or professional researchers, if they are not supported by documentary evidence. Dr. Stoffle's curriculum vitae does not demonstrate that he has worked in the field of genealogy or has used genealogical research methods.

Dr. Stoffle focuses on (1)Who the MOWA Are Today, (2) The Persistent People Concept, (3) MOWA Community Institutions, and (4) The Green Wall - Why the MOWA Could Not Break Apart (Response, Stoffle 1996, 3). He believes that the study supports the conclusion "that the MOWA Choctaw are an extension of the community of Indian people who occupied these lands in the early 1800's, especially in the year 1830 which began the forced relocation of the Choctaw people to the far west, to a place that is now called the state of Oklahoma" (Response, Stoffle 1996, 1).

Analysis - Dr. Stoffle presents an anthropological approach to defining the petitioner as exhibiting "all the characteristics of a persistent people" (Response, Stoffle 1996, 5). He notes that the petitioner "view themselves as The People Who Stayed" (Response, Stoffle 1996, 6). He specifically mentions "the relocation treaty between all the Choctaw people and the U.S. Federal government" which "was signed on the 15th of September, 1830 at Dancing Rabbit Creek," and contends "they existed at that time as an Indian Community" (Response, Stoffle, 6). The Dancing Rabbit Creek Treaty does provide evidence of a historical Choctaw Indian tribe; however, the petitioner has not documented that its ancestors were Choctaw, or that its progenitors were members of any other historical Indian tribe (PF 1994, 93-120). Dr. Stoffle cites no other historical documents, not otherwise reviewed for the Proposed Finding.

Conclusion - Dr. Stouffle's study does not provide evidence to document descent of members of the petitioning group (documentation or evidence to define relationships) from specific persons identified on the 1830 Choctaw Treaty of Dancing Rabbit Creek or from contemporaneous documents concerning members of the Choctaw Tribe. The Stoffle Report does not rebut the Proposed Finding that the petitioner does not meet criterion 83.7 (e).

4. Photographs, 74 pictures

Comments - The petitioner submits 10 color and 64 black-and-white pictures of identified people, places and things pertinent to both contemporary and past times. Individuals with relationships defined are noted on most of the pictures.

Analysis - Although identifying information is recorded on the fronts of the photographs which could allow a means of obtaining the names and other facts concerning an entire family group and clues to their ancestry, none of the pictures connect the individuals to the core ancestors cited in the Response to the Proposed Finding. The information on these photographs does not connect the individual in the photograph to Indian ancestors and does not demonstrate descent from a historical tribe.

Conclusion - These photographs do not rebut the Proposed Finding that the petitioner does not meet criterion 83.7 (e).

5. Ms. Matte Report, "Response to Proposed Finding Against Federal Acknowledgment of the MOWA Band of Choctaw"

The petitioner presents a 10-page report entitled, "Response to Proposed Finding Against Federal Acknowledgment of the MOWA Band of Choctaw," prepared by Jacqueline A. Matte The petitioner narrows the ancestors to five core ancestors from whom it claims direct descent. As stated in the MOWA Response, "The MOWA base 1830's ancestry upon five known individuals" and are listed as follows:

- Ka-li-o-ka, whom the petitioner claims was Choctaw and the mother of a Rose Reed,
- Nancy Fisher, whom the petitioner claims was Cherokee and the mother of a Cecile Weaver
- Lemuel Byrd, whom the petitioner claims was Cherokee and married to a daughter of a David Weaver
- David Weaver, whom the petitioner claims was Cherokee and married to Cecile, purported daughter of Nancy Fisher
- Alexander Brashears, whom the petitioner claims was part Choctaw, Creek, and possibly Cherokee (Response, Matte 1996, 3)

The petitioner concludes that it had "presented evidence of Indian heritage in the original common ancestors" and that "[t]his evidence shows the MOWA could prove genealogical descent"(Response, Matte 1996, 8). The petitioner further states that:

> The evidence does not clearly establish absence of genealogical descent. If the reviewer [Department] had applied the burden of proof required under 25 C.F.R. 83.7 (e), then the MOWA would pass summary review and would be considered under full evaluation for federal acknowledgment (Response, Matte 1996, 8).

25 CFR §83.10 (e) provides that if a petitioner fails to satisfy any one of the criteria 83.7 (e), (f), and (g), the AS-IA may decline to acknowledge that the petitioner is an Indian tribe without fully evaluating all seven of the mandatory criteria. The burden of proof fell to the Department when it decided to publish an expedited negative Proposed Finding. The Department met this burden when it published a negative Proposed Finding, including a thorough analysis of the evidence which clearly demonstrated that the petitioner could not meet criterion 83.7 (e). Once the expedited Proposed Finding is published, the burden of proof reverts back to the petitioner who then must argue and submit evidence to rebut the Proposed Finding, to show descent from a historical tribe based upon a "reasonable likelihood of the facts" standard. The petitioner has presented evidence in its response intended to demonstrate that it does descend from a historical North American Indian tribe. The Department's detailed analysis of the evidence in the response follows.

The following sections comment on evidence the petitioner presented for each of the identified MOWA core ancestors, analyze the evidence to see if the core ancestors descend from a historic tribe, and conclude whether evidence rebuts or supports the Proposed Finding.

a. KA-LI-O-KA - Documentation Submitted

The MOWA claim that the majority of its members descend from a Choctaw woman from the Sixtowns "Yowanni" and who, through a union with "Young Gains, a white Virginian," was the "mother of Rose Gaines Reed" (MOWA Pet. Narr. 1988a, 31 and Response, Matte 1996, 3). They claim that Rose Reed's mother was **Ka-li-o-ka**, "the daughter of a Choctaw Indian Chieftain" (Response, Matte 1996, 9).

Documenting this descent was most critical because it would connect a known MOWA core ancestor, Rose Reed, to an individual from the Choctaw Nation. However, neither primary nor secondary evidence was presented at the time of the Proposed Finding to document the name, Ka-li-o-ka. Neither primary nor secondary evidence was ever presented to document the parentage of Rose Reed who was born around 1775-1780.[5]

The petitioner provides useful documentary evidence concerning the relationship between Rose and *her husband*, Daniel Reed. In addition, the petitioner submitted volumes of genealogy concerning the children and descendants of Rose and Daniel Reed. However, the petitioner failed to document the direct descent or define the critical parental relationship between Rose Reed, and a Choctaw woman named Ka-li-o-ka, or any other Choctaw or Indian woman.

In the Response Matte report, the petitioner cites seven sources which it says involve a woman purportedly named "Ka-li-o-ka." The petitioner also provides a time line for this ancestor with 17 additional citations. This section will address each of these documents and its source as cited in the response.

(1) "The Strange Case of the Cajuns, " Alabama School Journal, April 1931

Comments - The petitioner presents an article, "The Strange Case of the Cajuns," from a professional educational magazine called the Alabama School Journal, dated April 1931. This article concerned then pending litigation over whether certain children could attend school. The Petitioner alleges that the case which began in 1929 involved the ancestors of the petitioning group when they were referred to as "the Cajuns." This court case in southwest Alabama (the petitioning group's general region) was "to determine their legal status and to obtain permission to enter their children in the white schools of Alabama" (Response, Matte 1996, 3, 9 n. 6). This article states the following:

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[5] On the 1850 U.S. Census, Rose Reed is listed as 70 years old making her birth year approximately 1780 (U.S. Census 1850b, 331). On the 1860 U.S. Census, she is listed as 80 years old making her birth year approximately 1780 (U.S. Census 1860b, 46); and on the 1870 U.S. Census, she is listed as 95 years old making her birth year approximately 1775 (U.S. Census 1870b, 144).

> In the testimony it was revealed that one Rose Reed, supposedly a Negro, was sold on the auction block at Jackson, Alabama, during the Civil War. A further investigation brought out the fact that several of her descendants are members of the Cajun colony near Chatom. These descendants, on the witness stand, testified that she was a Cherokee Indian, enslaved and sold along with the imported Africans." (Bailey 1931, n.p.)

Analysis - As noted by the petitioner, the reference to Rose Reed's purported specific tribal background conflicts with several other litigated cases: *The State vs. John Goodman & Jennie Reed* 1882/83, and *The State of Alabama vs Percy Reed and Helen Corkins* 1918-22 (Response, Matte 1996, 3). This 1930's article alone without historical context would indicate that her parent or parents were Cherokee. If this Rose Reed is the MOWA's ancestor Rose Reed, the testimony is incorrect in other important aspects which reduces its general credibility. The MOWA ancestor Rose Reed was not sold on the auction block at Jackson, Alabama during the Civil War. She was emancipated in 1818 by her husband, Daniel Reed through an Act passed at the first session of the General Assembly of the State of Alabama and is cited as follows:

> To authorize Daniel Reed to emancipate his Mulatto slave Rose.
> Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Alabama Territory, in General Assembly convened*, That Daniel Reed, a free male of colour, be, and he is hereby, authorized and empowered to emancipate, set free and discharge from the bonds of slavery, his mulatto slave named Rose: Provided, that he shall give bond, payable to the Governor of the Alabama Territory, conditioned, that the said woman Rose shall not become chargeable to any county or town within the Territory; which bond shall be filed in the office of the Clerk of the County Court of Washington county, agreeably to the provisions by law in such cases made and provided (Alabama. Session Laws 1818, 109-110).

The Rose Reed from whom many MOWA descend, by the time of the Civil War, was in her eighties and head of a free household. On the 1860 Federal Census, general popluation schedule, all eleven individuals of the household were listed "mulatto" under the description heading "White, black, or mulatto"(U.S. Census 1860b Schedule 1, 1004). On the 1860 Slave schedule, Rose Reed, far from being "sold on the auction block," appears as a slaveholder owning four slaves (U.S. Census 1860d, 28).[6] Rose Reed, wife of Daniel Reed, had been a free woman for over 40 years at the time of the Civil War.

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[6] Rose Reed's slaves were listed follows: a 21year old black female, a five year old black male, a two year old black female, and a three months old black female.

There is no evidence to support the statements in the 1931 magazine article as being applicable to the Rose Reed who was documented as a MOWA ancestor.

The ethnicity information in this 1931 article regarding Rose Reed and her descendants is inconsistent with the documentation from *The State of Alabama vs Percy Reed and Helen Corkins* 1918-22 and *The State vs. John Goodman & Jennie Reed* 1882/83. The Proposed Finding demonstrated also that the 1918-22 court "[t]estimony concerning Rose Reed's ethnicity was inconsistent. It was given at a time greatly removed from the events being discussed. Some of the testimony presented in court was chronologically impossible" (PF 1994, 42).

Conclusion - The Alabama School Journal magazine article does not assist in demonstrating descent from the historical Choctaw Nation. On the contrary, it only alludes to another tribe. This document does not assist in establishing a relationship between "Ka-li-o-ka" and Rose Reed. This article does not mention the name of the mother of Rose Reed or use the name "Ka-li-o-ka." This article also carries less weight than other documents concerning "Rose Reed" since neither Rose Reed or her parents were alive in 1931. From other reliable records, it is demonstrated that this article generally lacks credibility. Other reliable records show Rose Reed, a free woman of color in 1818, was not "sold on the auction block at Jackson, Alabama, during the Civil War." The information in this 1931 article is far removed from the information given in the 1882/2 court case and the subsequent 1918-22 testimonies which made no mention of Rose Reed's parentage, possible Cherokee origins, or having been sold as a slave during the Civil War.

(2) Minutes from, *The State vs. John Goodman and Jenny Reed*, dated 1881-1882.

Comments - This evidence refers to minutes of an early 1880's case entitled, *The State vs. John Goodman and Jenny Reed.* The petitioner provides copies of these minutes and also refers to these minutes in a footnote to support its statement that "Rose Gaines was half-Choctaw and half white." This same footnote also gives reference to the "1920-30s cases" to support this same claim (Response, Matte 1996, p. 3, n. 7; 9; and ex.).

The document submitted in the MOWA response is a copy of pages 264 and 339 of the Minutes of the Circuit Court, Washington County, Alabama. Page 264 references the case of *The State vs John Goodman & Jennie Reed* to be heard on March 22, 1881. The defendants asked for and received a continuance to the next session of the Circuit Court. BIA staff found an additional page in the Minutes Book concerning this case. On page 285, the case was docketed to be heard on October 10, 1881, but again the defendants sought a continuance which was granted. The attorney for the defendants was listed as Bosworth. Page 339 shows that the case of *The State vs John Goodman & Jennie Reed* was the second case docketed on March 21, 1882. The verbatim final journal entry follows:

> This day comes the State of Alabama by its Solicitor Gen. W. Taylor Esq who prosecuted for in behalf of the State of Alabama and the Defendant in proper person & by attorney & pleads not guilty where upon comes a jury of twelve good & lawful men to wit G.W. Sullivan Foreman & eleven others who being duly drawn, empaneled & sworn do in their oaths say We the Jury find the Defendants not guilty[.] It is therefore - considered by the court that the Defendants go hence & the State of Alabama pay its costs of in this case (Response, Matte 1996, 4, 9, n. 11).

The petitioner and the BIA tried to find more detailed documentation concerning this earliest known case regarding Rose Reed and her descendants. All subsequent cases regarding Rose Reed and her descendants refer to this 1880's case and what evidence was purportedly presented. The Proposed Finding addressed in detail the 1918-22 miscegenation case and stated that the testimony in this case "concerning Rose Reed's ethnicity was inconsistent.[7] It was given at a time greatly removed from the events being discussed. Some of the testimony presented in court was chronologically impossible" (PF 1994, 42). Some of the testimony was from a George W. Sullivan, age 74, who was asked to recall testimony given in a case 40 years previous "in the Washington County Circuit Court which tried one Goodman for marrying one of the Reeds" (PF 1994, 44).

Analysis - Initially, the petitioner claimed that "these [1880's]court records were burned" (MOWA Pet. Narr.1988a, 99). When the petitioner submitted this new evidence, the BIA verified that these court minutes do exist and obtained a certified copy for analysis. This evidence shows that a case was brought before the Circuit Court of Washington County, Alabama in 1881-82. The petitioner did not present any further documentation of this case. These pages of minutes do not mention any specifics regarding the case such as the evidence presented, specific allegations, or genealogical data used in the defense or prosecution. Moreover, these minutes do not state "that Rose Gaines was half-Choctaw and half-white" (Response, Matte 1996, 3).

These minutes refer to a case brought against a John Goodman and a Jennie Reed. According to the petitioner, Jennie Reed, also known as Virginia, was the daughter of William Reed and Lorinda Weaver. Thus, Jennie Reed was the granddaughter of Daniel and Rose Reed (MOWA Pet. Narr. 1988c, Genealogical Binder Daniel Reed/Rose Gains,

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[7] Miscegenation generally refers to interracial marriage; however, "[a]fter the Civil War, Alabama law was apparently interpreted to mean that prohibitions against interracial marriage applied to persons of African descent, but not to persons of Indian descent" (see Proposed Finding, pp. 22-27 for the historical background on Alabama laws codes regarding marriage and miscegenation).

327). Neither the petitioner nor BIA researchers could find a case file or further documentation of this 1880's case, except for the additional page 285 cited above.[8]

The petitioner references also a 1918 miscegenation case, *The State of Alabama vs Percy Reed and Helen Corkins*. This case involved Percy Reed, son of Reuben Reed and grandson of Daniel and Rose Reed. The jury of the Circuit Court, Washington County, Alabama in 1918 found the defendants guilty; Percy Reed was convicted of miscegenation. The case was appealed to the Court of Appeals of Alabama where the verdict was reversed and the case remanded with the following:

> In a miscegenation prosecution, under an indictment charging defendant, an alleged negro, with marrying a white woman, where the state's witnesses had no first-hand knowledge as to defendant's ancestors or their blood, their evidence was hearsay, the rule permitting the introduction of hearsay evidence as to pedigree being limited to declarations by a deceased relative or member of the family, and in view of all the testimony defendant's general affirmative charge should have been given (MOWA Pet. Narr.1988e. *Reed v State*, 353).

The Court of Appeals also ruled that "[t]he overruling of a motion for a new trial cannot be reviewed, where it does not appear what, if any, evidence was offered in support thereof' (MOWA Pet. Narr. 1988e. Miscegenation Cases File. *Reed v State*, 353). Further, The Court of Appeals took special note in the Judgment Entry and concluded:

> In a miscegenation prosecution for intermarriage of defendant, an alleged negro, with a white woman, the judgment entry stating "that, before passing sentence, the court proceeded to ascertain that defendant is of Indian or Spanish origin," while not evidence, *held* strongly persuasive of the fact that a case was not made against defendant, and that his general affirmative charge should have been given (MOWA Pet. Narr. 1988e. *Reed v State*, 353).[9]

Conclusion - These minutes identify a John Goodman and a Jennie Reed, who in an 1880's case were found "not guilty." This verdict does not demonstrate "that Rose Gaines was half-Choctaw and half-white." These minutes may be used to corroborate which Goodman and Reed were referenced in the 1918 miscegenation case that referred back to an 1880's case; however, nowhere in the 1880's minutes or in the record in the 1918 case is there evidence identifying Rose Reed's parents as members of the Choctaw Nation or any other Indian tribe. Neither the petitioner nor the BIA could find further evidence concerning this 1880's case. The materials in the Response do not warrant changes in the conclusion of the Proposed Finding that there was insufficient evidence to conclude that Rose Reed was part Choctaw.

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[8] If one assumes that this is a miscegenation case, the verdict would indicate that John Goodman and Jennie Reed were not guilty of an interracial marriage. As discussed in the Proposed Finding, the Alabama legislature in 1852 changed its 1830 code extending the term, "Mulatto," to the fourth generation from Negro Blood. Prior to 1852, the classification of persons in Alabama as "mulatto," with the accompanying restrictions, extended to persons who were in the "third generation" from any person of fully African ancestry, even though the other parent in each generation was white (PF, 1994, 25).

[9] These terms here connected by "or" do not demonstrate whether Percy Reed had asserted Indian ancestry in this 1920's proceeding.

(3) Report #15, *List of names of those warriors who fought under General Wayne, and also the names of the orphans in the Northeastern District,* dated August 17, 1831, American State Papers, Document 1315 (Response, Matte 1996 p. 9, n. 8)

Comments - The petitioner submitted a reference to the American State Papers, Document 1315, "Claims to Choctaw Reservations of Land under the 14th Article of the Treaty of 1830" to support its statement "Rose Gaines' mother, Ka-li-o-ka, claimed to be a citizen of the Choctaw Nation and wished to become a United States citizen" (Response, Matte 1996, 4).[10] Nowhere in Document 1315 does the name Ka-li-o-ka appear. Nowhere in this document does the name, Rose Gaines or Rose Reed appear.

The petitioner provided a copy of one page from Report #15, *List of names of those warriors who fought under General Wayne, and also the names of the orphans in the Northeastern District,* dated August 17, 1831, and recorded by Col. W. Ward, Agent, Choctaw Agency. This list documents the names of the orphans and the names of the deceased parents of the orphans.[11] The petitioner claims that the 49th entry listed on page 642 is in reference to the brothers of Rose Reed and is presented for review as follows:

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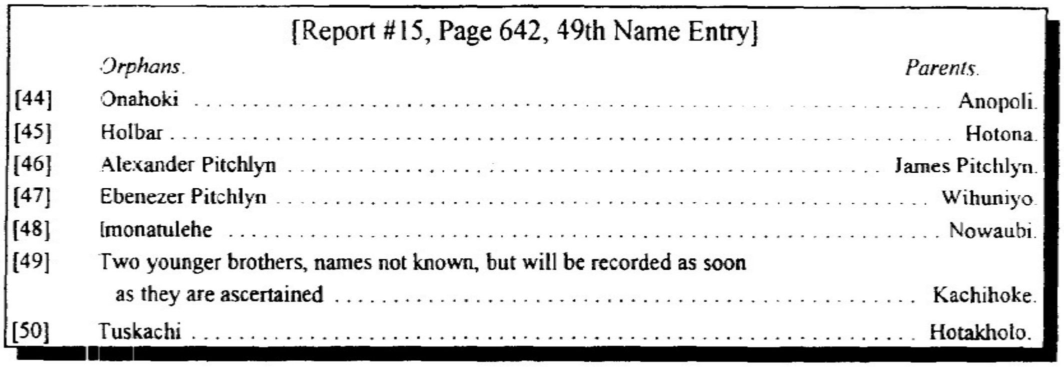
[10] On February 9, 1835, Secretary of War Lewis Cass submitted a 28-page document of 18 reports to President Andrew Jackson who then communicated it to the House of Representatives, Congress. In the transmittal letters of this document, Secretary of War Lewis Cass described, "In 1831, the agent for the Choctaws, Colonel William Ward, was instructed to prepare and transmit a register of all persons entitled to reservations under the fourteenth article of the treaty with that tribe, of 27th September, 1830" (ASP 1835, 627). This treaty, known as the Treaty of Dancing Rabbit Creek is historically significant to the Choctaw people because it removed the Choctaw Nation and "ceded to the United States the entire country owned by them east of the Mississippi river and agreed to remove on the domain within the Indian Territory' (Foreman 1932, 28).The fourteenth article of this treaty allowed the following:

> Each Choctaw head of a family being desirous to remain and become a citizen of the States, shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land... (Kappler 1903, 310).

[11] The Treaty of Dancing Rabbit Creek provided for the orphans of the Choctaw Nation and under Article 19 it states as follows

> ...likewise children of the Choctaw Nation residing in the Nation, who have neither father nor mother a list of which, with satisfactory proof of Parentage and orphanage being filed with Agent in six months to be forwarded to the War Department, shall be entitled to a quarter section of Land, to be located under the direction of the President, and with his consent the same may be sold and the proceeds applied to some beneficial purpose for the benefit of said orphans (Kappler 1902, 315).



[Report #15, Page 642, 49th Name Entry]

	Orphans.	*Parents.*
[44]	Onahoki	Anopoli.
[45]	Holbar	Hotona.
[46]	Alexander Pitchlyn	James Pitchlyn.
[47]	Ebenezer Pitchlyn	Wihuniyo.
[48]	Imonatulehe	Nowaubi.
[49]	Two younger brothers, names not known, but will be recorded as soon as they are ascertained	Kachihoke.
[50]	Tuskachi	Hotakholo.

The petitioner claimed the above listed "Kachihoke" is one and the same person as "Rose Gaines' mother, Ka-li-o-ka." The BIA researchers found a corresponding document showing that on December 31, 1831, Col. W. Ward certified a list of orphans in the same sequential order from Mushulatubbee's District [Northeastern District]. This record better identified family groups which were separated by lines in the document. This document clarified that these two orphan brothers were the sons of the deceased Nowaubi and Kachihoke:

["List of Claimants Under the Treaty of 1830"]

No.	Names of Orphans	Sex	Names of Parents	Place of Residence	
				Mushulatubbee's District	
38	Onahoka	female	Anapoli	do	do
39	Holbah	male	Hostona	do	do
40	Alexander Pitchlyn	male	James Pitchlyn	do	do
41	Ebenezer Pitchlyn	male	Wiluniyo	do	do
42	**Inolatubbee**	**male**	**Nowaubi**	**do**	**do**
43	**Two more**	**male**	**Kachihoke**[12]	**do**	**do**
44	Tuskachi	male	Hotackhollo	do	do
			Okishtoma	do	do

Analysis - Neither the petitioner's submitted document nor the corresponding record found by BIA provides evidence that "Kachihoke" and "Ka-li-o-ka" were one and the same. Neither 1831 record states the critical descent relationship of Rose Reed, or even a female, being a child of either "Kachihoke" or "Ka-li-o-ka". The only relationship defined in Report #15 is for three orphans (minors under age 21, or born between 1809 and

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[12] Record Group 75, 7RA116-1, Records of the Bureau of Indian Affairs, Records of the Commissioner to the Five Civilized Tribes, Records Relating to the Identification of Mississippi Choctaws, Lists of Claimants Under the Treaty of 1830, Copy, Col. Ward's Register, Choctaw Reservations received from Col. Martin, p. 61.

1830): Imonatulehe (later listed as a male with the variant spelling of Inolatubbee) and two unnamed younger brothers to their deceased parents Nowaubi[13] and Kachihoke.

Earlier the petitioner claimed, "A possibility exists but has not been confirmed: Kul-ih-ok-ka (Kachiloke) was listed as the mother of two orphan boys on the 'Claims to Choctaw Reservations' " (MOWA Pet. Narr. 1988a, 34). However, the analysis of this second document does not demonstrate or even indicate the possibility that the two unnamed orphans in 1831 were the brothers of Rose Reed. Thus the above records do not demonstrate the validity of the MOWA claim. Rose Reed was born around 1775-1780. If Rose Reed's mother was born at least 15 to 20 years earlier (1755-1760) it is not likely that she was the mother of children who were orphans/minors in 1831.[14]

Further, the petitioner is inconsistent by also claiming that:

> Rose's brothers, Jerry and Isaac, who had returned to Washington County, left soon after the end of the Creek War, probably following the Choctaw Treaty of 1816. They "packed personal belongings on their horses, took their guns and went west to find their mother, Kul-ih-o-ka" (MOWA Pet. Narr.1988a, 41).

If this statement was accurate, Rose Reed's alleged brothers were at least teenagers if not full adults by 1816. They could not be the same minors then (under age 21) listed on the 1831 orphans' lists. This information from oral tradition clearly implies that Jerry and Isaac "Gaines" were adults or near adults in 1816; and therefore not minor orphans in 1831. This oral tradition is more realistic in terms of ages and dates. The oral history concerning the brothers of Rose Reed and the name, "Kul-ih-o-ka," was supposedly provided in an interview with Abb and Ira Cole sometime between 1983 and 1987. However, no such statements were found on the taped interviews or elsewhere in the petition materials. The BIA did not find any evidence to support this critical claim attempting to link Rose Reed with "Kul-ih-o-ka."

Conclusion - The petitioner has made a claim regarding an individual named "Ka-li-o-ka;" however, there is insufficient evidence to document any relationship between Rose Reed and Ka-li-o-ka. Despite the coincidence in the similar spelling and sounds of this documented "Kachihoke" and the "Ka-li-o-ka" whom the petitioner claims, they are not one and the same person. Additionally, there is no evidence to support the MOWA claim that the minors on the 1831 lists were Jerry and Isaac, purported brothers of Rose Reed, who according to the testimony in the petition would have been adults by 1816 (for further discussion, see PF Technical Report, 40).

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[13] This record shows that the father of these two unnamed brothers is Nowaubi; thus they were definitely not children of Young Gains, as alleged by the petitioner.

[14] Ordinarily, genealogists assume that a woman's effective childbearing years are from approximately age 15 to approximately age 45. Claims of births to girls aged 12-14 or to women over 45 need to be carefully documented. In the 18th and 19th centuries, the great majority of births were to women aged 18-42. Even if Rose Reed were born in 1780, the later possible date, and her mother were only 15 (born ca. 1765), her mother would have been 44 in 1809 (earliest possible date for the birth of the oldest of the three orphaned sons of Kachihoke).

(4) "Mississippi folk Thrilled over finding Hidden Cask, gold coins," The Birmingham News-Age-Herald. Sunday, February 5, 1933. Gaines Family History File, Alabama Department of Archives & History

Comments - The petitioner submitted newspaper articles that appeared in the Birmingham News-Age-Herald in 1933 regarding the discovery of "Gold Coins". One article refers to a Young Gains, "a large landowner and plantation operator in South Mississippi long before the Civil War" who "married the daughter of a Choctaw Indian chieftain." The other article states "Gains married an Indian woman" (Response, Matte 1996, 9).

Analysis - The petitioner presents these articles as proof that the mother of Rose Reed was an "Indian woman" and the "daughter of a Choctaw Indian chieftain." These articles mention neither Rose Reed, nor the name, Ka-li-o-ka. All the information is from second hand knowledge, or is hearsay, and is uncorroborated in primary sources.

When tested, most of the information in these newspaper articles is inconsistent with documented historical fact. For example, one article states that "When the whole tribe was moved to a government reservation, these Indians turned over to Gaines all their possessions, including considerable quantities of gold and silver money." This makes little sense because Young Gains died in 1829; therefore, he was not alive when the Choctaw removal began in late 1830 and could not have received the Indians' possessions. No Choctaw removals took place before 1830. In another example, one articles names "Frank Gaines, a son of Young Gaines." However, Young Gains did not have a son by the name of Frank. The will of Young Gains does not mention a daughter Rose, a son Frank, or a map that was "bequeathed to his son" as referenced in the articles (MOWA Pet. Narr. 1988f, Gaines Family File). The Young Gains family Bible does not mention a son Frank, a daughter Rose, or a "Ka-li-o-ka" (MOWA Pet. Narr. 1988b, Gaines Family File).

Conclusion - These newspaper articles are insufficient to document descent relationships between Rose Reed and "Ka-li-o-ka" or any member of a historical Indian Tribe. Other contemporaneous documentation, including the will of Young Gains, the family Bible, and birth and death records, carries more weight than the newspaper accounts.

b. NANCY FISHER - Documentation Submitted

The MOWA claimed to descend from another core ancestor, Nancy Fisher, whom the petitioner claims to have been Cherokee. The MOWA oral tradition is that during the Creek War Nancy Fisher, an "Indian woman," swam a river "to safety on the Choctaw side of the river with her child, Cecile Weatherford" (Response, Matte 1996, 5). Ms. Matte asserts that this event probably occurred during the Ft. Mims Massacre which occurred in Baldwin County, Alabama on August 30, 1813 (Halbert 1995, 145). This date is a significant factor as will be discussed later in the report, as the petitioner's documented ancestor, Nancy's claimed daughter Cecile, was not apparently born until 1814.

Many individuals, between the years 1906-1909, claimed descent from this Nancy Fisher, when a distribution of Eastern Cherokee funds were awarded by the U.S. Court of Claims.[15] Those who could prove descent from Cherokee ancestors who were a party to the treaties of 1835-36 or 1846 were "entitled to participate in the fund arising from the judgment of the Court of Claims of May 28, 1906' (NARA M-1104 1906, cover page).

All applicants claiming Nancy Fisher as an ancestor were rejected because, "It does not appear that any ancestor was ever enrolled or that any ancestor was party to the treaties of 1835-6 or 46. Shows no connection with the Eastern Cherokees" (NARA M-1104 1906, Eastern Cherokee Application #95, Lemuel Weaver). As noted in the Proposed Finding, "the information which they [grandchildren of David and Cecile Weaver] provided was inconsistent, inconclusive, and added nothing to the statements that had been made by Cecile's daughters" (PF 1994, 63).

The MOWA Response Matte Report cites eleven sources they argue concern one Nancy Fisher to rebut the negative Proposed Finding. The petitioner also provides a time line for this claimed ancestor; however, no additional citations were presented. This section will address each of the eleven cited sources.

(1) Interviews of Sancer Byrd and Mrs. Ruth Shepard conducted on May 8, 1996 and interviews of Emma Johnston, Ola Irene Rivers, and Rosie Rivers conducted by Stuart Berde, anthropologist on August 22-23, 1983.

Comments - The petitioner cites these interviews as evidence, especially the interview with Mrs. Ruth Shepard, to show that Nancy Fisher was an Indian. She repeated this story again to Dr. Richard Stoffle, anthropologist, University of Arizona, on May 8, 1996, at "MOWA Choctaw Elder's Day" (Response, Matte 1996, 9). The petitioner claimed that a Nancy Fisher made an escape with her baby Cecile [the petitioners state this baby is one Cecile Weatherford] on her back during the Ft. Mims massacre which took place during the Creek War. This story continues to be told as recently as 1996 (Response, Matte 1996, 9).

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[15] The Eastern Cherokee applications of the U.S. Court of Claims are the only known documented source that the petitioner submitted to demonstrate that a Nancy Fisher connects to a Cecile, wife of David Weaver. The Eastern Cherokee applications stated that Cecile's maiden name was Weatherford, purportedly the daughter of William Weatherford, a noted Creek Indian leader. However, the Proposed Finding thoroughly disproved this assertion and the Petitioner did not continue to argue this claim to a William Weatherford connection in its response (for further discussion see PF 1994, 56-60).

The BIA staff reviewed the taped interviews and available transcripts of MOWA members who told a story of a woman who swam the river with baby on her back; however, no names are mentioned in the interviews or transcripts. One interviewee recalled what was told to her and stated, "My grandmother's, great-grand mother swam the river with her on her back (Response, Taped Interview, Ola Irene Rivers 1983, Side one 26.39). Another interviewer stated, "Yea, out yonder at Calvert is where she swam that river at, come on this side. But she went down there...(Response 1996b, Interview Transcript, Sancer Byrd 1983, 15).

Analysis - Although this story is told among the members of the petitioner, no documentation outside the oral tradition could be found to corroborate this story. The BIA also sought sources regarding those who survived the Ft. Mims massacre, but no mention of Nancy Fisher and her baby Cecile was located (Halbert 1995, 160-176 and PF 1994, 56-58; 102).

Conclusion - Despite the number of individuals who repeat the same story (even through time), the Department follows standard genealogical practice to require corroborative documentation of oral history pertaining to facts asserted which were not personally witnessed. Neither the petitioner nor the BIA has located any reliable documentation to substantiate a Nancy Fisher-Cecile Weatherford story.

(2) Excerpts from Halbert, H.S. and T.H. Ball. The Creek War of 1813 and 1814, edited with introduction and notes by Frank L. Owsley, Jr. Tuscaloosa: University of Alabama Press, 1969, Ch. 9, p. 143+; also, Ball, T. H. Clarke County, Alabama and its Surroundings. Grove Hill, Al, 1882, p. 479.

Comments - The petitioner cited these two published historical sources which the petitioner claimed reflect similarity with the MOWA oral traditions. The petitioner argued that the Proposed Finding "gave little consideration to this evidence" (Response, Matte 1996a, 5). The petitioner asserted that similar stories "of other survivors described in history of the Creek War of 1813-14, specifically the of [sic] battle of Fort Mims" corroborated "published accounts of the Creek War and oral history" (Response, Matte 1996a, 5).

The excerpt from Halbert's published book, The Creek War of 1813 and 1814, depicts a Peggy Baily who survived the Ft. Mims Massacre by "swimming the Alabama in August, when alligators were quite abundant," and of her heroism, "the United States Government bestowed a tract of land upon this heroine" (Halbert 1995, 164). Matte suggests that correlating this historical story of Peggy Baily with the similar MOWA "legendary story of the Indian woman, Nancy Fisher swimming a river with her child, Cecile Weatherford, during the Creek War to safety on the Choctaw side of the river" makes the MOWA tradition valid and documented through association (Response, Matte 1996a, 5).

The other excerpt that Matte presented is from Ball's Clarke County, Alabama and its Surroundings and cites a Samuel Fisher who "married an Indian woman, probably a Creek" and a Josiah Fisher who "married a Chickasaw woman" (Ball 1973, 479).

Analysis - Despite coincidences in names (people, places, and things), providing sufficient evidence to document descent requires demonstrating relationships and how they are defined in the records. Simply finding individuals who lived in the same general area with similar surnames does not necessarily make them related, no matter how remote a region may be. The MOWA tradition claims that a Nancy Fisher experienced an event similar to the heroic swim of Peggy Bailey which occurred during the Creek War; however, this similarity does not mean that the same ancestor participated in the same exact event of those individuals who have documented histories.

The name, Nancy Fisher, does not appear in the Halbert or Ball excerpts, yet Matte argues that because another woman was able to make a swim very similar to that described in MOWA interviews, the story about Nancy Fisher must also be accurate. Matte goes on to suggest without corroborating documentation that the cited Samuel Fisher who "married an Indian woman, probably a Creek" or the Josiah Fisher who "married a Chickasaw woman" must be related to the MOWA Nancy Fisher. Later, in conjunction with a William Fisher, Ms. Matte states:

> Although, a relationship has not been established between William and Nancy, clearly the Fisher families of Samuel, Josiah, and William were connected and all had Indian families (Response, Matte 1996a, 6).

Conclusion - The Proposed Finding warned the petitioner against jumping to quick conclusions unsupported by facts (PF 1994, 93). The people and events discussed in these excerpts do not demonstrate any connection to the petitioner's core ancestor whom they claim is a Nancy Fisher. Therefore, they do not merit a change in the conclusion of the Proposed Finding that there was insufficient evidence to document that Nancy Fisher was an Indian.

(3) Abstract of Baptism records from the Mobile Catholic Archdiocese, 1838-1855; see attached abstract [cited by petitioner in footnote 16 of the Response, Matte Report]

Comments - The Response Matte Report lists as new evidence 16 abstracted entries from the Catholic Archdiocese Baptism records. Ms. Matte has arranged the information in a chart with the following headings: "No., Child's Last Name, Child's First Name, Father's Name, Mother's Name, Date of Baptism, Date of Birth, [and] Sponsors" (Response, Schools/Churches 1996a, Last section, 1).

Jacqueline Matte provided an editorial note found under the title of her abstract: "(Note: Names in parenthesis were added by J. Matte)" (Response, Schools/Churches 1996a, Last section, 1). She also added question marks. Entry 774, for example, is presented in the Matte format.

[Catholic Archdiocese 2, 1838-1855, Abstracted]
(Note: Names in parenthesis were added by J. Matte)

No.	Child's Last Name	Child's First Name	Father's Name	Mother's Name	Date of Baptism	Date of Birth	Sponsors
774	(Weaver)	Amelie (Emaline)?	(Dave Weaver)	Cecile Weathers?	22 Jan 1843	1 Jan 1843	Faustin Chastang& Alexandrine Andry

The BAR staff compared the above Matte Abstract with the 1930's Works Projects Administration (WPA) transcriptions of the original records to understand the full and complete facts presented below:

[WPA Transcription]

No. 774 Amelie free col'd Jan. 22nd 1843	In the year of our Lord one thousand eight hundred & forty three & on the 22d day of January I the undersigned catholic priest of Mobile certify that I have baptized according to the rites of the church **Amelie natural daughter of Cecile Weathers, born** on the **1st day of January 1843.** Sponsors Faustin Chastang & Alexandrine Andry. In faith whereof I have signed G. Chalon

Analysis - Ms. Matte abstracted permanent baptism records of the Catholic Archdiocese of Mobile, AL. However, she took the liberty of inserting or omitting information. Although she noted her additions, including last names, variant first names, paternity, and questioning the last name of a mother, her omissions are not noted (Response, School/ Churches 1996a, 1). She does this for all the children of a Cecile Weathers and a Cecile. Therefore, her abstracts do not provide complete, accurate, or reliable information.

These entries do not document any connection to a historical tribe or members of a historical tribe. Further, when traced back three generations, they tend to establish a link to a family line of Nancy Fisher Idemis, a line which does not link to Nancy Fisher (Oaks) which has links to the Creek Nation. The Nancy Fisher Idemis line, ancestor to the petitioner's members, is not documented as Indian. Some entries suggest that those individuals documented among the Catholic Archdiocese records are the ancestors of the petitioner. The BIA compared the above WPA transcripts with the MOWA family group sheets. The BIA researchers found that this Amelie, the "natural daughter of Cecile Weathers," born January 1, 1843, matches exactly the birth date of the petitioner's

Emaline Weaver, the sixth child of "Dave Weaver" and "Cecele [sic] Weatherford" (MOWA Pet. Narr. 1988c, Genealogical Binder: Dave Weaver Family, 1) and appears to be the same person.

"Emaline 'Emmie'" Weaver who was born on "**January 1, 1843**" (bolded for emphasis) in Mobile Co., Alabama, married Reuben Reed. She died on August 23, 1912, and is buried at Reeds Chapel Cemetery (MOWA Pet. Narr. 1988c, Genealogical Binder: Dave Weaver Family, 158). In checking the cemetery record and despite the one day difference, one finds that Emmie Reed was born on **January 1, 1843** (bolded for emphasis) and died on August 22, 1912 (Washington County Historical Society 1982, 328).

The BIA genealogist searched for a possible baptism entry for infants named Cecile who could be Cecile Weathers, mother of Amelie and found this entry:

[WPA Abstract of Archdiocese Baptism Records 1784-1834]

137 - a

Veclaz, Cecilia, daughter Tomas Veclaz Nanci Edemfils	Apr. 9, 1814

This entry shows a Cecilia Veclaz born or baptized April 9, 1814 to Tomas Veclaz and Nanci Edemfils (Catholic Church 1781-1828, 137-a). The BIA found no evidence that Veclaz was a Spanish or French spelling of Weathers. However, the similarity of the first name, mother's name Nancy, generation and location/residence, indicate that Cecilia Veclaz is the same person as Cecelia Weathers who married David Weaver.

Finally to complete a full analysis, BIA genealogical researchers compared these baptism entries of Amelie, showing her mother to be Cecil Weathers, and of Cecilia Veclaz showing her mother to be Nanci Edemfils to the only known source where the name Nancy Fisher connects to the known MOWA ancestors - U.S. Court of Claims, Eastern Cherokee Fund Application records.

As stated above, every 1908 Eastern Cherokee funds applications for the children of Cecile Weaver were rejected by the Special Commissioner Guion Miller for inclusion in the distribution of the 1906 U.S. Court of Claims award. The Eastern Cherokee Funds application of David C. Weaver, the older brother of Emiline "Emmie" Weaver Reed, stated that his maternal grandmother's name was Nancy Fisher Idemis (PF 1994, 58) which is very similar phonetically to Edemfils. This application, thus, indicates a potential link between the ancestral family of Cecelia Weathers, married to David Weaver, to Nancy Fisher Idemis or Nanci Edemfils.

The petitioner alleged that the wife of David Weaver was Cecile Weatherford, daughter of William Weatherford and Nancy Fisher. Yet, the petitioner presented a baptism reference for Amelie, the natural daughter of Cecile Weathers.

Based on the above analysis of the records cited in this section of the report, the BIA researchers outline the following:

OUTLINE

Amelie, daughter of Cecile Weathers
b. January 1, 1843 - In all probability is Emaline Weaver who married Reuben Reed

Cecelia Veclaz, b. or bapt. April 9, 1814, daughter of Tomas Veclaz and
Nanci Edemfils, appears to be Cecile Weathers

Nanci Edemfils could be Nancy Idemis/Edenfield/Chastang[16]

Conclusion - The records of the Catholic Archdiocese assisted in documenting relationships. However, abstracts provided in the Matte Report were not accurate and provided misleading information. The actual baptismal records provide some evidence which may connect a Cecile Weathers/Cecilia Veclaz to Nancy Edemfils/Idemis/Edenfield/Chastang by indicating that one Amelie, daughter of Cecile Weathers, is the same person as Emaline Weaver, daughter of Dave Weaver. If they are the same, then her brother's (David C. Weaver) testimony indicates that the mother of Cecile Weathers is not Nancy Fisher (Oaks), but Nancy Fisher Idemis, who by similarity of name and age, could be Nanci Edemfils, wife of Tomas Veclaz. There is no evidence presented that Cecile Weathers descended from a historical tribe. The evidence does identify the Weathers/Weaver as free people of color.

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[16] The Department took note that the petitioner submitted the 1847 will of Philippe Chastang "in which he left land to his wife Nancy Edenfield Chastang — land which after her death was to become the property of her (not their) granddaughter, Foteney Weaver (MOWA Pet. 1988, Ex. Reed File)" (PF 1994, 60). The will of Philippe Chastang corroborates more to the baptism record of Cecelia Veclaz where her mother's name is listed as Nanci Edemfils than to the Eastern Cherokee Applicants who claimed descent from a Cecile Weaver to a Nancy Fisher Idemis. Neither the Weaver claimants and U.S. Court of Claims Commissioner then nor the petitioner and Department now have demonstrated any connection between a Weatherford and a Fisher or records to prove "Nancy Fisher" descended from any Native American tribe.

Nor does this new evidence demonstrate that the surname Weathers transformed through the passing of time into Weatherford, as the petitioner argues. Both surnames, Weathers and Weatherford appear on the 1850 U.S. Census in Mobile County, Alabama. Regardless, the evidence does not demonstrate that the mother of Cecile was Native American.

(4) Last Will and Testament of Josiah Fisher, dated 30 July 1816. Orphans Court Records, p. 14; Inventory of Josiah Fisher, deceased; p. 22, Wm. F. Ware appointed guardian for the Minors of Josiah Fisher, deceased; Muscogee & Wm. Fisher, Monroe County, Alabama, Alabama Archives & History, LG217. (Abstract and copy of original sent with original petition.)

Comments - In the Response to the Petition, Ms. Matte asserts that "Nancy Fisher is a relative of Semohoway, Creek-Chickasaw wife of Josiah Fisher, a resident of Creek Nation." She makes this assertion based only on the fact that the name, Nancy Oaks, appears on the records cited. A Nancy Oaks attests that "she was present when Josiah Fisher made & signed his will."

Analysis - The relationship between Josiah Fisher and this Nancy Oaks is not revealed or defined in these documents. Nothing demonstrates that Nancy Oaks is related to a Creek-Chickasaw woman named Semohoway, or that Nancy Fisher is Nancy Oaks. No support in this will is found for the speculation that Nancy Oaks and Nancy Fisher were the same person, or were related.

Conclusion - The record neither assists in proving descent from any Indian ancestors nor from a historical tribe. This record by itself does not prove or disprove the parentage or tribal origins of a woman named Nancy Fisher.

(5) "Evidence in the case of Laughlin Durant. Returned to the Treasury: returned to the Commissioner of the GLO, March 10, 1825"

Comments - This document was sent anonymously, without source references, to the petitioner. No source has been found for this document; searches have been conducted at National Archives, General Land Office, Center for Legislative Archives, Bureau of Land Management; Alabama Department of Archives & History; Baldwin County Probate Records; Monroe County Probate Records, Mobile County Probate Records and Alabama Supreme Court (Response, Matte 1996a, 9).

Apparently this record is in reference to a Laughlin Durant who has submitted a land claim. The record describes a woman witness for the claimant: "Nancy Fisher (alias Oaks) was a half-breed strumpet..."(Response, Matte 1996a, 5).

Analysis - The petitioner submitted this new evidence which was anonymously sent to them. The petitioner and the BAR staff tried to identify the source, but could not locate the original documents. Without original documents from a known source, the copies themselves could not be verified for completeness or authenticity.

Regardless, the BIA staff considered this evidence and found that it did not link this Nancy Fisher (alias Oaks) to a historical tribe. This document does not demonstrate her relationships to any ancestors or descendants. No relationships to children, spouses, or parents are stated or defined. The name of this individual, Nancy Fisher (alias Oaks) gives some clues; however, the use of maiden or married names is unclear. No age, residence, or other identification was made on this Nancy Fisher; therefore, it was not possible to conclude that Nancy Fisher, alias Oaks, was the same Nancy Fisher whom the petitioner claimed as the mother of Cecile. This record, when considered with the document presented in the previous source (4), demonstrates the possibility that Nancy Oaks who witnessed the will of Josiah Fisher in 1818, may be connected to the same Nancy Fisher (alias Oaks) who was a woman witness for Laughlin Durant.

Conclusion - This record does provide evidence that a woman Nancy Fisher (alias Oaks) was described as a "half-breed" (Response, Matte 1996a, 5) and appears to have been associated with Josiah Fisher. However, this record does not reference descent from any particular historical tribe. Nor does this record state who her descendants or ancestors were; and therefore, does not link her to any known MOWA ancestors.

(6) Plat Books, St. Stephen Land district, Map p. 62, Alabama Archives & History, SG-5126.

Comments - Ms. Matte reported that this evidence could not be photocopied. No photographs of these maps were sent. Based on the narrative in the Response, this citation refers to a plat book for the St. Stephen Land district where the location of the land claimed by Laughlin Durant is documented.

Analysis - No apparent descent relationships are defined for the MOWA core ancestor, whom they claim is Nancy Fisher.

Conclusion - This record does not provide additional facts which prove or define relationships to a Nancy Fisher.

(7) Plat Books, St. Stephens land District, Book-010, 1804, p. 8-13, Alabama Archives & History, SG-4360.

Comments - Ms. Matte refers to a passage in document, "...the land...is now cultivated by an Indian woman who lived with Fisher as his wife" (Response, Matte 1996a, Fourth Section, last page).

Analysis - This record documents that an "Indian woman" was a wife and lived with a man with the surname Fisher (Response, Matte 1996a, Fourth Section, last page). The

"Indian woman" is not named and the man whose surname is Fisher, is not identified either. This record could pertain to any man with the name of Fisher. The record does not mention a Nancy Fisher by name.

Conclusion - This evidence does not assist in refuting the Proposed Finding because while a man named Fisher may have had an Indian wife, she is not identified and can not be linked to any known MOWA ancestor.

(8) 1850 U.S. Census, Mobile County for a William Fisher

Comments - The petitioner makes the statement, "Although, a relationship has not been established between William and Nancy, clearly the Fisher families of Samuel, Josiah, and William were connected and all had Indian families" (Response, Matte 1996a, 6). Ms. Matte cites the 1850 U.S. Census for Mobile County for a William Fisher, Sr., age 49, farmer, having "owned a great deal of land and a son, William Fisher, Jr. age 24. In the Response Matte claimed that this William Fisher had children "married into the LaFlore and Krebs families, Creoles who married Choctaws" (Response, Matte 1996a, p. 10, n. 21).

Analysis - There are actually three William Fishers listed on the 1850 U.S. Census, Mobile County, Alabama (U.S. Census, 1850a, 1, 350). William Fisher, Sr., a farmer, age 49 making his birth year around 1801; William Fisher, Jr., a farmer, age 24 making his birth year around 1826; and another William Fisher, a sailor, age 33 making his birth year around 1817.

Conclusion - A connection to Nancy Fisher, whom the MOWA claim as an ancestor, is not documented through this record. The name of a Nancy Fisher does not even appear. This record is insufficient to rebut the Proposed Finding.

(9) American State Papers 3:36 *List of actual settlers who have no claim in the district east of Pearl River in Louisiana, who have no claims derived from either French, British or Spanish grants.* Also, Private Land Grants, 1839, Baldwin County Courthouse, Bay Minette, AL, Com'rs Report No. 12, Cl. No. 49, Catharine Edenfield, Sec.'s 61 & 52, Townships 1 North, & 1 South, Range 2 East, St. Stephens Land District situated on the east side of the Tensaw River, December 18, 1844.

Comments - The petitioner has found a few references to individuals with the Edenfield surname. The records cited are for a "Charine Edenfield" whose "date of original settlement, 1807 on Tensas River" and a "Catharine Edenfield" whose private land grant was issued out of St. Stephens Land district office, Alabama, where the landed description was given as Sections 61 & 52, Townships 1 North, & South, Range 2 East situated on the east side of the Tensaw River, December 18, 1844 (Response, Matte 1996a, 10).

Analysis - The petitioner failed to provide information or documentation that demonstrate how the MOWA core ancestor whom they claim as Nancy Fisher is connected to these individuals.

Conclusion - These records do not rebut the Proposed Finding.

(10) "Birth records compiled by Rev. John B. Serra, S.J.", Catholic Diocese Records, p. 8 of photocopy; also Marriages performed by Fr. J.B. Serra, p. 60

Comments - Ms. Matte presents an abstract of birth records compiled by Rev. John B. Serra to support the petitioner's claim that the two names "Weathers" and "Weatherford" were used interchangeably. Athough not noted, Ms. Matte edits her abstract by putting an asterisk beside the same Weather. She then makes an editorial note in parenthesis of her assumption that "Weather" is also known as "Weatherford."

Catholic Diocese Records "Birth records compiled by Rev. John B. Serra, S.J."

Recorded	**Name**	**Birth**	**Parents**	**Page**
1 Nov 1879	Christian	7 Sept 1879	Becker, William & Mary	38
11 Dec 1881	William	1 Oct 1880	Becker, William & Mary Weather*	42

*(Weather a.k.a. Weatherford)

(Response, School/Churches 1996, Third Section, 1)

The BIA noted that this entry recorded on December 11, 1881 for William born October 1, 1880, shows his parents to be William Becker and Mary Weather (not Weathers).

To complete her argument that the names "Weather," "Weathers," and "Weatherford" are used interchangeably, Ms. Matte presented another abstracted, transcribed, and edited version of "Marriages performed by Fr. J.B. Serra, O.J." The BIA staff noted that Ms. Matte inserted brackets with an undocumented assumption of a maiden name and Matte, herself, questions the possibility of two Willie Beckers. The petitioner presented the marriage entry, as follows:

Marriage performed by Fr. J.B. Serra, O.J.

23 Aug 1869 Blessed the marriage between Willie Becker and Mary [Weatherford]Becker, at his house, before mass baptized her. Benediction, Mass and both received Holy communion (May be two Willie Beckers??).

(Response 1994, School/Churches, Third Section, 2)

Analysis - These Catholic Diocese records are significant entries and it is important to analyze them genealogically, relating names to dates and events such as birth and marriage. It is possible that an individual creating a record may make an error or not record an individual's name completely or correctly. However, as stated earlier in this report, the census records clearly show that there were separate families named Weathers and Weatherford living in Mobile County, Alabama. There is no evidence to support an assumption that the names were always or even periodically interchangeable. For further relevant data, see the following section.

Conclusion - Mary Weather's parentage was not given in this record which does not demonstrate that Cecile Weavers or her purported mother, Nancy Fisher descend from a historical tribe. These records in no way tie the petitioner to a possible ancestress whom they named Cecile Weatherford or Cecile's purported mother Nancy Fisher. These records make no mention of either Cecile or Nancy. This record does not rebut the Proposed Finding.

(11) Thompson, Lynn Hastie. *William Weatherford, His Country and His People*. Bay Minette, AL: Lavender Publishing Company, 946.

Comments - This secondary source provides a chart showing the descent from a John Weatherford, whose relationship to William Weatherford, a Creek Chief, is unknown. John Weatherford's granddaughter Mary Lillian Weatherford is listed as a descendant. The chart shows she was married to a William A. Becker on June 15, 1878 in Mobile, Alabama. The chart shows her children were Neville, Earl VanDorn, Lillian, and Percy.

Analysis - The following chart compares the facts from the previous sources.

	Thompson's *William Weatherford*	Matte Abstract
Name:	Mary Lillian Weatherford	Mary Weather
Marriage date:	June 15, 1878	August 23, 1869
Spouse:	William A. Becker	William/Willie Becker
Children:	Neville	Christian (b.9/7/1879)
	Earl Van Dorn (12/8/1882)	William (b.10/1/1881)
	Lillian	
	Percy	

Conclusion - Despite coincidences in the first given names of Mary and William, both common given names; there are major differences in the marriage dates and children names. There were many families named Weathers and Weatherford in Mobile County. There is no evidence to assume that these two families are one and the same. This material provides compelling evidence of the existence of two distinct families; not of interchangeable use of the Weathers and Weatherford names.

c. **LEMUEL BYRD** - Documentation Submitted

Another MOWA core ancestor is Lemuel Byrd, whom the petitioner claims to be Cherokee. The MOWA oral tradition identifies him as "Lemuel Byrd, Irish and Cherokee, who fought with General Jackson and came into Alabama with the Weavers...from Georgia...around 1830" (Response, Matte 1996a, 7). The 1850 U.S. Census for Alabama lists five Lemuel Byrd's; two living in Mobile County just seven households away from each other. Obviously these two Lemuel Byrd's are not one and the same person; however, it does reflect how even unusual, uncommon names can refer to two distinct persons in a small geographical community. In order to understand which Lemuel Byrd is the ancestor of the petitioner, basic facts concerning the ancestor must be known. Otherwise, one might pick the wrong Lemuel Byrd. The petitioner submitted the following items:

(1) Interviews with Sancer Byrd, August 25-31, 1983; Ola Irene Byrd Rivers and Rosie Byrd Rivers, August 22, 1983.

Comments - For its Response, the petitioner provided the interview tapes and some transcripts for the individuals cited. These tapes and transcripts were reviewed in full. The interviews provided clues which a researcher could utilize in finding primary source records to corroborate the interviewed information. The oral traditions state that Lemuel Byrd was Cherokee; however, as stated in the Proposed Finding, "the origins of Lemuel Byrd were based upon oral tradition and bear almost no resemblance to the...documentary record" (PF 1994, 66).

Analysis - The Proposed Finding found that documentary evidence did not corroborate the MOWA interviews with regard to the origins of Lemuel Byrd (PF 1994, 64-67).

Conclusion - The interviews with Sancer Byrd, Ola Irene Byrd Rivers and Rosie Byrd Rivers did not provide consistent reliable information to allow the production of documentary evidence to rebut the Proposed Finding. There is no evidence that Lemuel Byrd has any documentable American Indian ancestry.

(2) Woodward, Thomas. *Woodward's Reminiscences of the Creek, or Muscogee Indians.* Montgomery, AL: 1859, pp. 136-137.

Comments - The petitioner submitted this secondary source in which Thomas Woodward discusses the military service. Some of his memories involved people, places, and things which he encountered while engaged in his military service. The petitioner submits a passage of Mr. Woodward's campaign stories against the Creeks where he describes in detail individuals and events which took place in 1818: the unforgettable beheading of Tom Lee and the scalping of Sam Loftis at Cedar Creek, Georgia. The petitioner tried to reason that since Woodward's encounters were so similar to what Lemuel Byrd described in his military pension application: "...engaged in a skirmish with the Indians on Cedar Creek. .in which Captain Lee, the wagon master and private Loftis were killed," then this demonstrates somehow that Lemuel Byrd was Cherokee (MOWA Pet. 1988a, Byrd Family File and Response, Matte 1996, 8).

Analysis - Despite coincidences in places and events, documenting descent requires demonstrating relationships and how they are defined in the records. Simply finding individuals who experienced similar events in the same general area does not necessarily make them connected to that person or group, as in the case of Peggy Bailey and Nancy Fisher. The petitioner again claims that one of its ancestors, whom they claim is a Lemuel Byrd, experienced a similar event to that of a known historical figure which occurred during 1818; however, this similarity does not mean that the same ancestor participated in the same exact event of those individuals who have documented histories. Cherokees were enlisted in regiments to fight against the Creeks. However, neither Thomas Woodward's reminiscences as cited by the petitioner, nor Lemuel Byrd's pension application state that they were Cherokee or serving in Cherokee regiments.

Conclusion - This reference does not rebut the Proposed Finding. Lemuel Byrd has not been shown to have any documentable American Indian ancestry.

d. **DAVID WEAVER** - Documentation Submitted

Another MOWA core ancestor is David Weaver, whom the petitioner claims to be Cherokee. The MOWA oral tradition is that David Weaver "came with the mass exodus out of Georgia after the Seminole (Florida Wars) against the Creeks around 1830" (Response, Matte 1996a, 5). The petitioner submitted documents which, it asserted, show that the David Weaver whom the petitioner claims as an ancestor is the same individual listed as "Weaver" and "Weaver (Dave)" among Cherokee census and missionary records, respectively.

(1) Warren, Mary B. Whites Among the Cherokees: Georgia 1828-1838. Danielsville, GA: Heritage Papers, 1987, p. 27-29.

Comments - This new evidence is from a secondary source and shows a transcription of the 1830 Census of Carrol County, Georgia, enumerating "Free Colored Persons." The entry for a "Weaver" shows he was the head of a household composed of one male between ages 0-10, one male between 24-36, and one female between 10-24 (Warren, 1987, 28).

Analysis - This transcription of the U.S. Census for Carroll County, GA, does not reveal which "Weaver" this may be. No first name is given and no other names are given for those in the household. In the proposed finding, the U.S. Censuses for Mobile Co., Alabama (the county where David Weaver consistently appears) for 1830, 1840, 1850, 1860, and 1870 were extensively analyzed. The petitioner's core ancestor, David Weaver, is clearly identified (PF 1994, 53). There is no evidence at this time to connect the unnamed "Weaver" in 1830 Carroll County, Georgia to David Weaver who lived in Mobile County, Alabama from 1830 to 1889.

Conclusion - This document did not rebut the evidence in the Proposed Finding concerning the documentation for the MOWA core ancestor, David Weaver. This evidence does not show descent from an historic Indian tribe.

(2) Charles O. Walker. Cherokee Footprints, Vol I, privately printed, 1988. Letter dated Dec. 11, 1827, Carmel Cherokee Nation to Jeremiah Evarts

Comments - This reference is from a secondary source of transcribed records of valuations taken around 1835 of the Cherokee people who were removed from Pickens County, Georgia. The transcription cites exactly [parenthesis included] a "Weaver (Dave)" whose two cabins and "1 ½ acres land in good fence were valued at $19.00" (Walker 1988, 81).

Ms. Matte also makes reference to a letter dated December 11, 1827, reporting that a "Dave Weaver, age 40, full Cherokee, Hannah Weaver, age 25, full Creek, with Peggy, 32 and Anna, 70" are listed as being admitted as members of church 16 May 1824. (Response, Matte 1996, p.10, n. 26). The petitioner did not include a copy of this letter with the response, and it could not be analyzed.

Analysis - This Cherokee valuation record does not state relationships between "Weaver (Dave)" in Pickens, Georgia in 1835 and David Weaver, MOWA progenitor, who was living in Mobile County, Alabama before the 1830 Census. No other identifying factors such as age, names of parents, siblings, spouse, or children, were recorded for this Pickens County individual. The Proposed Finding clearly demonstrates that the Petitioner's core ancestor, David Weaver settled in Mobile County, Alabama, by 1830 (PF 1994, 53).

Similarly, the church record citation does not give the location of the church under discussion or further identify the family of this (Dave) Weaver who was born around in 1784 (1824 - 40 years of age). The petitioner's core ancestor, David Weaver was born around 1799-1802 based on the U.S. Censuses (PF 1994, 53). Although the names are the same, there is no evidence they are one and the same person.

Conclusion - Although these references show a "Weaver (Dave)" / "Dave Weaver" connected to records of Cherokee people, they cannot be used to demonstrate descent of David Weaver, the MOWA core ancestor. As in other instances throughout its petition and response to the Proposed Finding, the petitioner has ignored some basic principles of genealogical research: same or similar names do not demonstrate family relationships (or tribal descent); one man can not have two dates (ages) and be simultaneously living in two different states; family traditions, no matter how frequently or authoritatively reported, must be substantiated by sound evidence.

e. **ALEXANDER BRASHEARS**

Comments - Another MOWA core ancestor is Alexander Brashears, whom the petitioner claims to be Choctaw, "son of Samuel and Racheal Durant Brashears" (PF 1994, 117). The Proposed Finding addressed the connection for the MOWA descendants to ancestor Alexander Brashears. Only one per cent of the members of the petitioning group descend from this Indian ancestor. The Proposed Finding addressed intermarriage between Brashear descendants and other MOWA ancestral families in the 1880's (PF 1994, 81-87).

The petitioner did not submit any additional documentation regarding Alexander Brashears. The petitioner stated that the "Brashears line was accepted under summary review and is extensively documented from the Creek War of 1813 through the 1830 Treaty of Dancing Rabbit Creek" (Response, Matte 1996a, 3). As in the Proposed Finding, the BIA finds sufficient evidence to document that Alexander Brashears was Indian, however, only one percent of the petitioner's members trace to this individual.

Other Evidence Submitted

In responding to the Proposed Finding, the petitioner submitted various forms of evidence not yet discussed in full.

1. Audio Tapes - Interviews with MOWA members

Comments - The petitioner submitted audio taped interviews of its MOWA members after being requested by the Department to do so. All 66 Audio taped interviews were considered and reviewed. Any available transcripts were read. The only cited segment which supposedly mentioned the name Ka-li-o-ka was not found on the tapes. It was found in the narrative text of the original petition, where the petitioner cites an interview with Abb and Ira Cole (MOWA Pet. Narr.1988a, 34, 41). This interview could not be found or located among the 66 taped interviews; yet, exact quotes were used in the petition. The petitioner did not provide the taped interview which was apparently the source of the "Ka-li-o-ka" quotations.

Analysis - The taped interviews contain much information concerning the petitioning group and were conducted from 1983 to 1987. The petitioner cited from 112 interviews in the original narrative petition or 1/3rd of the 333 footnotes.

Conclusion - The interviews were analyzed to see how exact, slightly incorrect, or completely incorrect the narratives were when compared to the documented facts.

The taped interviews of persons living in the 1980's did not provide new evidence to establish tribal descent for the petitioner's 19th century ancestors. Neither primary nor reliable secondary documentation could be found to substantiate the various claims of family connections or tribal descent. Relevant conclusions are discussed above under the individual core ancestors.

2. Federal Time line

a. "MOWA Choctaw Federal Acknowledgment Petition Timeline [sic]"

Comments - The petitioner presented a time line with a beginning in 1978 and ending with 1996.

Analysis - This time line does not address the issue of descent.

Conclusion -This time line was neither relevant to nor rebutted the Proposed Finding that the petitioner does not meet criterion 83.7 (e).

b. "Federal government identification of Indians in Mobile and Washington Counties"

Comments - This section presents excerpts and partial quotations from an article in the Smithsonian Institute 1948 Annual Report, "Surviving Indian Groups of the Eastern United States," by William Harlen Gilbert. This report cites family names and describes "Persons of Indian blood," "Creoles," "Cajans," "Sabine," and "Persons of color." The petitioner also cites "MOWA ancestors as free persons of color on the 1855 Mobile County census. Two other excerpts are presented; however the sources are unidentified. Combining the three sources, the petitioner concludes "that the MOWA ancestors were regarded as Indians."

Analysis - This section does not address descent of individuals, or a historic tribe.

Conclusion - This section is neither relevant nor rebuts the Proposed Finding that the petitioner does not meet criterion 83.7 (e).

c. "BYRD"

Comments - This section appears to be excerpts from "RG 75, Central Classified files, 1907-39, 55742-1934, file No. 150, OIA Education Department, "report on Remote Groups of Indians as made by the undersigned (Samuel H. Thompson, Supervisor of Indian Education in charge of Public School Relations.) during the Month of October, 1934: Alabama." It is a description of a Thomas Byrd and his family and origins. He and his ancestors are described as "Choctaw," "looks Indian," "one-half Indian," "part Indian."

Analysis - This section does not address descent of the five core ancestors, but describes how individuals were classified or identified by other persons. Neither this excerpt nor the petitioner provided evidence to substantiate these statements.

Conclusion - This section is neither relevant nor rebuts the Proposed Finding that the petitioner does not meet criterion 83.7 (e).

3. MOWA Choctaw Ancestors

a. MOWA Choctaw Unknowable ancestors and known ancestors in Mobile and Washington County Homeland

Comments - This chart depicts the prevalence of "Indian Names & unrecorded English names" vs "Recorded English names" from 1830 to the present. The apparent purpose of the chart is to assert that in addition to the known named ancestors through whom the petitioner asserted Choctaw or other Indian descent, the MOWA's members also descend from many more "unknowable" Choctaw ancestors.

Analysis - The correlation between singular Indian names and unrecorded English names is difficult to document. The Choctaw Nation went through several litigated cases which involved clear definition of individuals. The National Archives is full of primary documents concerning the Choctaw people and the use of singular or Indian names. Even so, the genealogical researcher must find those records where relationships are clearly defined and where the Indian and English names are side by side. The Indian name is "bridged" with an English name. The genealogical researcher will find primary records with terms or phrases, such as but not limited to: "alias," "also known as (AKA)," "formerly known as," or "nee" from the French term "born" to indicate name given at birth. Terms which show direct descent are terms or phrases, such as but not limited to: "the son of," "the daughter of," "his mother,""the grandchild of."

Conclusion - Records which define Indian and English names side by side must be found in order to link the two names as referencing the same individual. Otherwise, the individual could be anyone. Additionally, there are only a few ancestors on the ancestry charts submitted by the MOWA for the group's members who are not identified. Thus they do not have large numbers of "unknown and unknowable" ancestors in the first third of the 19th century. Undocumented descent from unidentified individuals does not in any case contribute to a petitioner's meeting criterion 83.7 (e).

b. "Continuity of MOWA Tribe Timeline [sic]"

Comments - The petitioner presents a time line depicting 24 important events when records were created for the Choctaw people and the people of the region or how the people were described.

Analysis - This time line starts with the removal period 1830 and continues through 1996. Lists of individuals were created for those who removed and for those who remained. Reports and letters since the removal document the presence of Choctaw people in Alabama, Mississippi, Louisiana, and other parts of the country. Many of these lists contain Choctaw singular names which make it difficult for the genealogist to demonstrate descent. Sometimes these lists contain just one name and no other identifying characteristics such as age, sex, residence, parents, spouses, children. The U.S. Censuses from 1790 through 1840 only list heads of households and age groups by gender for those living within the household. Most genealogists will use names found on these earlier census records as clues to find other records in specific localities. In 1850 and the following census decades, names of household members were recorded with age and gender. By 1880, specific relationship designations were required on the census schedules.

Conclusion - All these events and lists were reviewed and analyzed to determine the descent of the petitioner as a tribe and as individuals. The Proposed Finding discussed each core ancestor, the claim of descent, and "any possible connection of the ancestor to a 'historical tribe' in the acknowledgment context (PF 1994, 38, 50, 54, 61, 63, 67). This time line does not rebut the evidence relied on in the Proposed Finding.

c. "To the Commissioner of Indian Affairs" signed by Felix Andry, dated November 24, 1851, 3 pages

Comments - This photographic reproduction of a letter is one of many documents which identify individuals of the Choctaw, Six Town Indians.

Analysis - None of the MOWA core ancestors appear on this list, nor can any of the listed persons be identified as MOWA ancestors. The petitioner has not provided the documentation to demonstrate descent from any of these Choctaw/Indian individuals, nor was such descent found by the Department in the analysis of the documentation available on this petition.

Conclusion - This letter does not rebut the conclusions of the Proposed Finding.

4. "Fisher Timeline [sic]"

a. The petitioner submitted a two page "Fisher-Weatherford-Weaver Timeline [sic]."

Comments - The Proposed Finding recommended that the petitioner develop time lines to understand individuals who were contemporaries and to see "whether they lived in locations which would have made it feasible for them to be associates" (PF 1994, 93-94). This time line depicts the life of one of the claimed core ancestral families, starting with "Nancy Fisher's" approximate birth year, 1785-90, extending through her life until her death around 1850, and ending on January 29, 1913, the death date of a granddaughter.

Each chronological event is somewhat documented with sources cited with the exception of just a few.

Analysis - This time line represents 32 events associated or purported to be associated with the Fisher/Weatherford/Weaver families. All events lead back to the MOWA core ancestor, Nancy Fisher. The petitioner has not found any record to document her birth or her parents, any contemporary record of her name, or any document connecting her to the part-Creek Weatherford family.

Conclusion - The petitioner developed this time line as a tool to assist in understanding the claimed MOWA core ancestral families of Fisher/Weatherford/Weaver as they have been documented from various sources. However, this time line does not rebut the Proposed Finding with new evidence. It is particularly problematical because it is based on unsubstantiated assumptions.

b. "Map of Tombigbee-Alabama river delta"

Comments - This map depicts the region in Alabama from St. Stephens to Mobile Bay, Alabama. Some family definition (not cited) is provided in the legend of the map.

> ...Little Lizard Creek (where John Chastang lived with Louison; their son Phillip later m. Nancy Fisher) and Tensaw R. Map illustrates where Nancy Fisher swam the river with the baby, Cecile, on her back to safety on Choctaw side. Creeks were East of river. Choctaws were West of river (Response, Fisher Time Line 1996a, Last Section).

Analysis - This map provides some statements/traditions concerning some individuals associated with the MOWA claimed core ancestral families of Fisher/Weatherford/Weaver. However, these traditions are not supplemented with documentation and occasionally contradict the available documents (see for example footnote 15: the will of Phillip Chastang naming of his wife as "Nancy Edenfield Chastang"). This map has no source identification or author. No date appears for this map. The annotations indicate that the map is intended to depict certain locations related to the history of the Fisher/Weatherford/Weaver families; although no mention of the names Weatherford and Weaver appear. Without a source, a date, or other verification, this map can not be considered as reliable evidence.

Conclusion - Although this map provides a visual depiction of the regions where the petitioner claims the MOWA core ancestors lived, it is a recently created document and does not constitute direct, primary evidence. The relationships stated on the map in its legend were previously addressed in the Proposed Finding. This map does not rebut the Proposed Finding.

5. "Ka-li-o-ka Timeline [sic]"

a. The Petitioner submitted a four page "Ka-li-o-ka -Gaines-Reed-Cole" time line.

Comments - As commented earlier, the Proposed Finding recommended that the petitioner develop time lines to understand individuals who were contemporaries and to see "whether they lived in locations which would have made it feasible for them to be associates" (PF 1994, 93-94). This time line depicts the life of one of the core ancestral families, starting with "Young Gains first appearance on Tombigbee" around 1780 and ends on 21 Mar 1882 (Response, Ka-li-o-ka Time line Section 1996a).

This time line represents 49 events associated or purported to be associated with the Ka-li-o-ka/Reed families. All events lead back to the claimed MOWA core ancestor, Ka-li-o-ka, through the identified MOWA core ancestor, Rose Reed. The petitioner has cited 17 of these events with footnotes. Some new evidence has been presented. It was analyzed and certain discrepancies noted, particulary those entries without documentary evidence. Those entries analyzed are listed as follows:

(1)	~1780	Young Gain[e]s first appearance on Tombigbee
(2)	~1790-95	Rose Gaines was born, dau. of Ka-li-o-ka, a Choctaw & Young Gaines
(3)	~1790-1800	Ka-li-o-ka, dau. of a Choctaw chief, mother of Rose Gaines also had Isaac, Jerry & Ann by Young Gaines
(4)	~1812	George S. Gaines m. Ann, Dau. of Young Gain[e]s, his uncle
(5)	~1820	Daniel Reed, fpc emancipated Judy and Eliza, mulattos; said to be daughters of George S. Gaines, Choctaw Agent and Rose Gaines Reed
(6)	21 Mar 1882	Virginia "Jennie" Reed & John Goodman found "Not Guilty" of miscegenation. Rose Gaines Reed was proven Choctaw and white.
(7)	Footnote 3	Acts of Alabama Legislature 1820, 44
(8)	Footnote 4	Rose Gaines and George S. Gaines were 1st cousins; their fathers were brothers
(9)	Footnote 10	Book K, Washington Co. Probate Record, 3 Mar 1845. New documentation
(10)	Footnote 17	Circuit Court Minute Book 16, CCS-D-3, 1[8]77-1883, Washington County., Alabama. New documentation.

Analysis - Each of the examples cited above is analyzed in the same order.

(1) The petitioner has given a new date for Young Gains' first appearance. In the

Petition, the year 1787 is documented for Young Gains' claimed Spanish land grant (MOWA Pet. Narr. 1988a, 31). The petitioner does not give a citation for this newly assigned year, 1780.

(2) The 1850, 1860, and 1870 U.S. Censuses demonstrate Rose Reed's birth year to be between 1775-1780 (see footnote 6 of this report). The petitioner gives no citation for this entry. According to the Petition, Abb and Ira Cole gave an interview naming her "Kul-ih-o-ka" (MOWA Pet. Narr. 1988a, p.32 n. 24). However, in reviewing the taped interview of July 6, 1986 and the transcripts to the interview of July 10, 1984, Abb Cole does not state the name of the mother of Rose Reed and names her father as "S. Gaines" (Response 1996, Abb Cole Interview, July 10, 1984).

(3) The petitioner gives no citation for this entry. Again, in the petition Abb and Ira Cole are given credit for this information. In the interview of July 10, 1984 Abb Cole names just Jerry Gaines and Isaac Gaines. In the interview of July 6, 1986, he states just the given names: Isaac and Joe. The Interviewer suggests another sibling, Ann. Mr. Abb did not recall (Response 1996, Abb Cole Interview, July 10, 1984).

(4) George S. Gaines married Ann Gains, daughter of Young Gains and Esther Lawrence. Young Gains was the father-in-law to George S. Gaines. Young Gains was not his uncle (MOWA Pet. 1988b, Gaines Family File).

(5) "The Act to authorize Daniel Reid to emancipate certain slaves therein named" clearly states, "That Daniel Reid, a man of color, of Washington county [sic], be, and he is hereby authorized and empowered to emancipate his two children [emphasis added] Judah and Eliza" (Alabama. Session Laws, 1820, 104).

(6) This verdict in this case was only "not guilty." No evidence was presented to show that Rose Reed's purported Indian ancestry was determined (Washington County, Circuit Court Minutes, Book B, [1877-1883 CCS-D-3 Book 16, Minutes, 264, 285, 339])

(7) This act does not state in the text anywhere that his daughters were mulatto. The act does state the relationship between Daniel Reid to "his two children Judah and Eliza." Nowhere within the text of this document, cited by the petitioner, does it define a relationship between these two daughters to "George S. Gaines and Rose Gaines Reed (see #(5) above and Alabama Session Laws, 1820, 104)

(8) There is no evidence that Rose Reed and George S. Gaines were related, their fathers have not been proven to be brothers. The paternity for Rose Reed has never been established. George S. Gaines was the son-in-law to Young Gains (MOWA Pet.1988b, Gaines Family File).

(9) A copy of this record was not included in the Response to the Proposed Finding.

(10) Footnote 17 was already discussed above, and there was no evidence to demonstrate descent in the minutes.

Conclusion - This time line, a tool created by the petitioner to assist in understanding the MOWA core ancestral families of Ka-li-o-ka/Reed is incompletely documented from various sources. Although this time line attempts to rebut the Proposed Finding, many of the assertions are not documented with records which clearly define relationships. This time line does not rebut the conclusions of the Proposed Finding.

6. Supporting Documents

Comments - The petitioner submitted eight documents under the section heading, "Supporting Documents: a promotional flyer, six letters showing support of the Federal Acknowledgment petitioning process for the MOWA, an affidavit from a probate judge attesting to oral history, a law enforcement agreement, and an affidavit attesting to genealogical information.

Analysis - None of these records contain facts of the ancestors whom the petitioner has claimed as core Indian ancestors; therefore these documents do not rebut the Proposed Finding.

Comments - Although these documents are new evidence; they do not state relationships to rebut the Proposed Finding or establish descent from an historic tribe as required in criterion 83.7 (e).

7. School/Churches

Comments - The last section of the response to the Proposed Finding are documents from schools and churches. These are new evidence and most have been discussed in previous sections. The other records do not state relationships to rebut the Proposed Finding or demonstrate descent from a historic tribe as required in criterion 83.7 (e).

CONCLUSIONS

The Department has reviewed and considered all the materials that were submitted with the petitioner's response to the Proposed Finding. The petitioner narrowed its core ancestors to five individuals, and submitted additional evidence for four of them. The Proposed Finding concluded, "In order to meet criterion 83.7 (e), the petitioner must demonstrate Indian ancestry in descent from a historical tribe, or from tribes which combined and functioned as a single entity."

As found in the Proposed Finding, the petitioner has not provided sufficient evidence to document Indian ancestry for its core families from any of the tribes claimed in its petition or response to the Proposed Finding.

The petitioner specifically claimed that its core ancestors were "the Signors [sic] and Beneficiaries of the 1830 Treaty of Dancing Rabbit Creek" and "Persons whose names appear on Identification Rolls of the Dawes Commission" (MOWA Pet. Narr. 1988d, Governing Document file, 2). These and related records were searched thoroughly to try to find any connection to the current MOWA members. The Department could not locate any connections to the four core ancestors whom the petitioner has claimed to be Choctaw or to any other historical tribes. In other words, "Ka-li-o-ka" could not be located for any of those who claimed her as a direct ancestor. "Nancy Fisher" could not be identified with any historical tribe and connected to those who claimed her as a direct ancestor. "Lemuel Byrd" and "Dave Weaver" could not be identified with any historical tribes.

The records pertaining to the Choctaw Nation and its people are extensive. Particular attention was paid to those records which defined relationships, names, dates, and locations. A considerable number of records exist which correlate phonetically-spelled Indian names with corresponding anglicized names (given names and surnames). The following were searched:

A. Descendants of the Signers and Beneficiaries of the 1830 Treaty of Dancing Rabbit Creek
    1. Treaty signers
    2. 1831 Armstrong Roll
    3. 1856 Cooper Roll
    4. 1880's Court of Claims

B. Persons whose names appear on Identification Rolls of the Dawes Commission
    1. Records of the Commissioner to the Five Civilized Tribes. Records Relating to the Identification of Mississippi Choctaws. Entry 102. Letters Sent by Enrollment Clerks, 1901.
    2. ____. Entry 103. Lists of Claimants under the Treaty of 1830, n.d.
    3. ____. Entry 104. Index to Scrip Books, n.d.
    4. ____. Entry 105. Index to Records of Testimony, 1899.
    5. ____. Entry 106. Indexes to Field Cards, n.d.
    6. ____. Entry 107. Indexes to Applicants, 1902-1906.
    7. ____. Entry 108. Kinship Diagrams.
    8. ____. Entry 109. Decisions of the Commission, 1902-1904.
    9. ____. Entry 110. Roll of Identified Mississippi Choctaws, 1905.
    10. ____. Entry 111. Lists of Identified Full-Blood Mississippi Choctaws, n.d.
    11. ____. Entry 112. Lists of Persons Removed, 1904.
    12. ____. Entry 113. Enrollment Certificate Stubs, 1902 -1906.

The petitioner could not demonstrate by means of primary source documentation acceptable to the Secretary that the MOWA ancestors or the individuals whom the petitioner has claimed to be of Indian descent were documented from records of or pertaining to the historical Choctaw Nation or any other Native American tribe. Nor did the Department locate such documentation in its review of the evidence. No evidence was submitted to change the conclusions of the Proposed Finding.

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